

INSURANCE RELATED AMENDMENTS

2010 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill modifies the Insurance Code and related provisions to make various amendments.

Highlighted Provisions:

This bill:

- ▶ modifies definitions;
- ▶ addresses fees and nonlapsing money;
- ▶ removes outdated language related to reporting;
- ▶ allows a member of the Title and Escrow Commission to continue to serve until replaced;
- ▶ modifies duties of the Title and Escrow Commission;
- ▶ modifies provisions related to variable contract law;
- ▶ modifies provisions related to approval of forms;
- ▶ addresses requirements for purchasing groups;
- ▶ clarifies language related to underinsured motorist coverage;
- ▶ prohibits certain conduct related insurance premium finance agreements;
- ▶ modifies provisions related to catastrophic coverage of mental health conditions;
- ▶ addresses issuance of group or blanket accident and health insurance;
- ▶ modifies Utah's mini-COBRA provisions;
- ▶ addresses special enrollment periods relating to Medicaid and Children's Health Insurance Program;
- ▶ addresses provisions related to licensure and insurance adjusting;
- ▶ modifies definitions related to life settlements;
- ▶ provides for rulemaking and other processes related to surrender of a professional employer organization license;
- ▶ addresses the board of directors for the Utah Defined Contribution Risk Adjuster;
- and

33 ► makes technical and conforming amendments.

34 **Monies Appropriated in this Bill:**

35 None

36 **Other Special Clauses:**

37 None

38 **Utah Code Sections Affected:**

39 AMENDS:

40 **31A-1-301**, as last amended by Laws of Utah 2009, Chapter 349

41 **31A-2-403**, as last amended by Laws of Utah 2008, Chapter 345

42 **31A-2-404**, as last amended by Laws of Utah 2008, Chapter 382

43 **31A-3-103**, as last amended by Laws of Utah 2009, Chapters 183 and 368

44 **31A-3-104**, as last amended by Laws of Utah 2006, Chapter 117

45 **31A-3-304 (Superseded 07/01/10)**, as last amended by Laws of Utah 2009, Chapter
46 183

47 **31A-3-304 (Effective 07/01/10)**, as last amended by Laws of Utah 2009, Chapter 183

48 **31A-5-217.5**, as enacted by Laws of Utah 1992, Chapter 230

49 **31A-15-208**, as enacted by Laws of Utah 1992, Chapter 258

50 **31A-20-106**, as enacted by Laws of Utah 1985, Chapter 242

51 **31A-21-201**, as last amended by Laws of Utah 2005, Chapter 123

52 **31A-21-301**, as last amended by Laws of Utah 2001, Chapter 116

53 **31A-22-305.3**, as last amended by Laws of Utah 2009, Chapter 231

54 **31A-22-411**, as last amended by Laws of Utah 1991, Chapter 74

55 **31A-22-625**, as last amended by Laws of Utah 2008, Chapters 345 and 382

56 **31A-22-701**, as last amended by Laws of Utah 2007, Chapter 307

57 **31A-22-722**, as last amended by Laws of Utah 2009, Chapter 12

58 **31A-26-201**, as last amended by Laws of Utah 2003, Chapter 298

59 **31A-35-401**, as last amended by Laws of Utah 2009, Chapter 183

60 **31A-35-406**, as last amended by Laws of Utah 2009, Chapters 183 and 349

61 **31A-36-102**, as last amended by Laws of Utah 2009, Chapter 355

62 **31A-40-103**, as enacted by Laws of Utah 2008, Chapter 318

63 **31A-40-302**, as enacted by Laws of Utah 2008, Chapter 318

64 **31A-42-201**, as enacted by Laws of Utah 2009, Chapter 12

65 **63J-1-602**, as enacted by Laws of Utah 2009, Chapter 368

66 ENACTS:

67 **31A-22-429**, Utah Code Annotated 1953

68 **31A-22-725**, Utah Code Annotated 1953

69 **31A-40-307**, Utah Code Annotated 1953

70

71 *Be it enacted by the Legislature of the state of Utah:*

72 Section 1. Section **31A-1-301** is amended to read:

73 **31A-1-301. Definitions.**

74 As used in this title, unless otherwise specified:

75 (1) (a) "Accident and health insurance" means insurance to provide protection against
76 economic losses resulting from:

77 (i) a medical condition including:

78 (A) a medical care expense; or

79 (B) the risk of disability;

80 (ii) accident; or

81 (iii) sickness.

82 (b) "Accident and health insurance":

83 (i) includes a contract with disability contingencies including:

84 (A) an income replacement contract;

85 (B) a health care contract;

86 (C) an expense reimbursement contract;

87 (D) a credit accident and health contract;

88 (E) a continuing care contract; and

89 (F) a long-term care contract; and

90 (ii) may provide:

91 (A) hospital coverage;

92 (B) surgical coverage;

93 (C) medical coverage;

(D) loss of income coverage;

(E) prescription drug coverage;

(F) dental coverage; or

(G) vision coverage.

(c) "Accident and health insurance" does not include workers' compensation insurance.

(2) "Actuary" is as defined by the commissioner by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) "Administrator" is defined in Subsection (159).

(4) "Adult" means an individual who has attained the age of at least 18 years.

(5) "Affiliate" means a person who controls, is controlled by, or is under common control with, another person. A corporation is an affiliate of another corporation, regardless of ownership, if substantially the same group of individuals manage the corporations.

(6) "Agency" means:

(a) a person other than an individual, including a sole proprietorship by which an individual does business under an assumed name; and

(b) an insurance organization licensed or required to be licensed under Section 31A-23a-301.

(7) "Alien insurer" means an insurer domiciled outside the United States.

(8) "Amendment" means an endorsement to an insurance policy or certificate.

(9) "Annuity" means an agreement to make periodical payments for a period certain or over the lifetime of one or more individuals if the making or continuance of all or some of the series of the payments, or the amount of the payment, is dependent upon the continuance of human life.

(10) "Application" means a document:

(a) (i) completed by an applicant to provide information about the risk to be insured; and

(ii) that contains information that is used by the insurer to evaluate risk and decide whether to:

(A) insure the risk under:

(I) the coverage as originally offered; or

(II) a modification of the coverage as originally offered; or

- 125 (B) decline to insure the risk; or
126 (b) used by the insurer to gather information from the applicant before issuance of an
127 annuity contract.
- 128 (11) "Articles" or "articles of incorporation" means:
129 (a) the original articles;
130 (b) a special law;
131 (c) a charter;
132 (d) an amendment;
133 (e) restated articles;
134 (f) articles of merger or consolidation;
135 (g) a trust instrument;
136 (h) another constitutive document for a trust or other entity that is not a corporation;
137 and
138 (i) an amendment to an item listed in Subsections (11)(a) through (h).
- 139 (12) "Bail bond insurance" means a guarantee that a person will attend court when
140 required, up to and including surrender of the person in execution of a sentence imposed under
141 Subsection 77-20-7(1), as a condition to the release of that person from confinement.
- 142 (13) "Binder" is defined in Section 31A-21-102.
- 143 (14) "Blanket insurance policy" means a group policy covering a defined class of
144 persons:
145 (a) without individual underwriting or application; and
146 (b) that is determined by definition with or without designating each person covered.
- 147 (15) "Board," "board of trustees," or "board of directors" means the group of persons
148 with responsibility over, or management of, a corporation, however designated.
- 149 (16) "Business entity" means:
150 (a) a corporation;
151 (b) an association;
152 (c) a partnership;
153 (d) a limited liability company;
154 (e) a limited liability partnership; or
155 (f) another legal entity.

- 156 (17) "Business of insurance" is defined in Subsection (85).
- 157 (18) "Business plan" means the information required to be supplied to the
- 158 commissioner under Subsections 31A-5-204(2)(i) and (j), including the information required
- 159 when these subsections apply by reference under:
- 160 (a) Section 31A-7-201;
- 161 (b) Section 31A-8-205; or
- 162 (c) Subsection 31A-9-205(2).
- 163 (19) (a) "Bylaws" means the rules adopted for the regulation or management of a
- 164 corporation's affairs, however designated.
- 165 (b) "Bylaws" includes comparable rules for a trust or other entity that is not a
- 166 corporation.
- 167 (20) "Captive insurance company" means:
- 168 (a) an insurer:
- 169 (i) owned by another organization; and
- 170 (ii) whose exclusive purpose is to insure risks of the parent organization and an
- 171 affiliated company; or
- 172 (b) in the case of a group or association, an insurer:
- 173 (i) owned by the insureds; and
- 174 (ii) whose exclusive purpose is to insure risks of:
- 175 (A) a member organization;
- 176 (B) a group member; or
- 177 (C) an affiliate of:
- 178 (I) a member organization; or
- 179 (II) a group member.
- 180 (21) "Casualty insurance" means liability insurance.
- 181 (22) "Certificate" means evidence of insurance given to:
- 182 (a) an insured under a group insurance policy; or
- 183 (b) a third party.
- 184 (23) "Certificate of authority" is included within the term "license."
- 185 (24) "Claim," unless the context otherwise requires, means a request or demand on an
- 186 insurer for payment of a benefit according to the terms of an insurance policy.

(25) "Claims-made coverage" means an insurance contract or provision limiting coverage under a policy insuring against legal liability to claims that are first made against the insured while the policy is in force.

(26) (a) "Commissioner" or "commissioner of insurance" means Utah's insurance commissioner.

(b) When appropriate, the terms listed in Subsection (26)(a) apply to the equivalent supervisory official of another jurisdiction.

(27) (a) "Continuing care insurance" means insurance that:

(i) provides board and lodging;

(ii) provides one or more of the following:

(A) a personal service;

(B) a nursing service;

(C) a medical service; or

(D) any other health-related service; and

(iii) provides the coverage described in this Subsection (27)(a) under an agreement effective:

(A) for the life of the insured; or

(B) for a period in excess of one year.

(b) Insurance is continuing care insurance regardless of whether or not the board and lodging are provided at the same location as a service described in Subsection (27)(a)(ii).

(28) (a) "Control," "controlling," "controlled," or "under common control" means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person. This control may be:

(i) by contract;

(ii) by common management;

(iii) through the ownership of voting securities; or

(iv) by a means other than those described in Subsections (28)(a)(i) through (iii).

(b) There is no presumption that an individual holding an official position with another person controls that person solely by reason of the position.

(c) A person having a contract or arrangement giving control is considered to have control despite the illegality or invalidity of the contract or arrangement.

(d) There is a rebuttable presumption of control in a person who directly or indirectly owns, controls, holds with the power to vote, or holds proxies to vote 10% or more of the voting securities of another person.

(29) "Controlled insurer" means a licensed insurer that is either directly or indirectly controlled by a producer.

(30) "Controlling person" means a person that directly or indirectly has the power to direct or cause to be directed, the management, control, or activities of a reinsurance intermediary.

(31) "Controlling producer" means a producer who directly or indirectly controls an insurer.

(32) (a) "Corporation" means an insurance corporation, except when referring to:

(i) a corporation doing business:

(A) as:

(I) an insurance producer;

(II) a limited line producer;

(III) a consultant;

(IV) a managing general agent;

(V) a reinsurance intermediary;

(VI) a third party administrator; or

(VII) an adjuster; and

(B) under:

(I) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries;

(II) Chapter 25, Third Party Administrators; or

(III) Chapter 26, Insurance Adjusters; or

(ii) a noninsurer that is part of a holding company system under Chapter 16, Insurance Holding Companies.

(b) "Stock corporation" means a stock insurance corporation.

(c) "Mutual" or "mutual corporation" means a mutual insurance corporation.

(33) (a) "Creditable coverage" has the same meaning as provided in federal regulations adopted pursuant to the Health Insurance Portability and Accountability Act of 1996, Pub. L.

249 104-191, 110 Stat. 1936.

250 (b) "Creditable coverage" includes coverage that is offered through a public health plan
251 such as:

252 (i) the Primary Care Network Program under a Medicaid primary care network
253 demonstration waiver obtained subject to Section 26-18-3;

254 (ii) the Children's Health Insurance Program under Section 26-40-106; or

255 (iii) the Ryan White Program Comprehensive AIDS Resources Emergency Act, Pub. L.
256 101-381, and Ryan White HIV/AIDs Treatment Modernization Act of 2006, Pub. L. 109-415.

257 (34) "Credit accident and health insurance" means insurance on a debtor to provide
258 indemnity for payments coming due on a specific loan or other credit transaction while the
259 debtor is disabled.

260 (35) (a) "Credit insurance" means insurance offered in connection with an extension of
261 credit that is limited to partially or wholly extinguishing that credit obligation.

262 (b) "Credit insurance" includes:

263 (i) credit accident and health insurance;

264 (ii) credit life insurance;

265 (iii) credit property insurance;

266 (iv) credit unemployment insurance;

267 (v) guaranteed automobile protection insurance;

268 (vi) involuntary unemployment insurance;

269 (vii) mortgage accident and health insurance;

270 (viii) mortgage guaranty insurance; and

271 (ix) mortgage life insurance.

272 (36) "Credit life insurance" means insurance on the life of a debtor in connection with
273 an extension of credit that pays a person if the debtor dies.

274 (37) "Credit property insurance" means insurance:

275 (a) offered in connection with an extension of credit; and

276 (b) that protects the property until the debt is paid.

277 (38) "Credit unemployment insurance" means insurance:

278 (a) offered in connection with an extension of credit; and

279 (b) that provides indemnity if the debtor is unemployed for payments coming due on a:

- 280 (i) specific loan; or
281 (ii) credit transaction.
- 282 (39) "Creditor" means a person, including an insured, having a claim, whether:
283 (a) matured;
284 (b) unmatured;
285 (c) liquidated;
286 (d) unliquidated;
287 (e) secured;
288 (f) unsecured;
289 (g) absolute;
290 (h) fixed; or
291 (i) contingent.
- 292 (40) (a) "Customer service representative" means a person that provides an insurance
293 service and insurance product information:
294 (i) for the customer service representative's:
295 (A) producer; or
296 (B) consultant employer; and
297 (ii) to the customer service representative's employer's:
298 (A) customer;
299 (B) client; or
300 (C) organization.
- 301 (b) A customer service representative may only operate within the scope of authority of
302 the customer service representative's producer or consultant employer.
- 303 (41) "Deadline" means a final date or time:
304 (a) imposed by:
305 (i) statute;
306 (ii) rule; or
307 (iii) order; and
308 (b) by which a required filing or payment must be received by the department.
- 309 (42) "Deemer clause" means a provision under this title under which upon the
310 occurrence of a condition precedent, the commissioner is considered to have taken a specific

311 action. If the statute so provides, a condition precedent may be the commissioner's failure to
312 take a specific action.

313 (43) "Degree of relationship" means the number of steps between two persons
314 determined by counting the generations separating one person from a common ancestor and
315 then counting the generations to the other person.

316 (44) "Department" means the Insurance Department.

317 (45) "Director" means a member of the board of directors of a corporation.

318 (46) "Disability" means a physiological or psychological condition that partially or
319 totally limits an individual's ability to:

320 (a) perform the duties of:

321 (i) that individual's occupation; or

322 (ii) any occupation for which the individual is reasonably suited by education, training,
323 or experience; or

324 (b) perform two or more of the following basic activities of daily living:

325 (i) eating;

326 (ii) toileting;

327 (iii) transferring;

328 (iv) bathing; or

329 (v) dressing.

330 (47) "Disability income insurance" is defined in Subsection (76).

331 (48) "Domestic insurer" means an insurer organized under the laws of this state.

332 (49) "Domiciliary state" means the state in which an insurer:

333 (a) is incorporated;

334 (b) is organized; or

335 (c) in the case of an alien insurer, enters into the United States.

336 (50) (a) "Eligible employee" means:

337 (i) an employee who:

338 (A) works on a full-time basis; and

339 (B) has a normal work week of 30 or more hours; or

340 (ii) a person described in Subsection (50)(b).

341 (b) "Eligible employee" includes, if the individual is included under a health benefit

342 plan of a small employer:

343 (i) a sole proprietor;

344 (ii) a partner in a partnership; or

345 (iii) an independent contractor.

346 (c) "Eligible employee" does not include, unless eligible under Subsection (50)(b):

347 (i) an individual who works on a temporary or substitute basis for a small employer;

348 (ii) an employer's spouse; or

349 (iii) a dependent of an employer.

350 (51) "Employee" means an individual employed by an employer.

351 (52) "Employee benefits" means one or more benefits or services provided to:

352 (a) an employee; or

353 (b) a dependent of an employee.

354 (53) (a) "Employee welfare fund" means a fund:

355 (i) established or maintained, whether directly or through a trustee, by:

356 (A) one or more employers;

357 (B) one or more labor organizations; or

358 (C) a combination of employers and labor organizations; and

359 (ii) that provides employee benefits paid or contracted to be paid, other than income

360 from investments of the fund:

361 (A) by or on behalf of an employer doing business in this state; or

362 (B) for the benefit of a person employed in this state.

363 (b) "Employee welfare fund" includes a plan funded or subsidized by a user fee or tax

364 revenues.

365 (54) "Endorsement" means a written agreement attached to a policy or certificate to

366 modify the policy or certificate coverage.

367 (55) "Enrollment date," with respect to a health benefit plan, means:

368 (a) the first day of coverage; or

369 (b) if there is a waiting period, the first day of the waiting period.

370 (56) (a) "Escrow" means:

371 (i) a real estate settlement or real estate closing conducted by a third party pursuant to

372 the requirements of a written agreement between the parties in a real estate transaction; or

- 373 (ii) a settlement or closing involving:
- 374 (A) a mobile home;
- 375 (B) a grazing right;
- 376 (C) a water right; or
- 377 (D) other personal property authorized by the commissioner.
- 378 (b) "Escrow" includes the act of conducting a:
- 379 (i) real estate settlement; or
- 380 (ii) real estate closing.
- 381 (57) "Escrow agent" means:
- 382 (a) an insurance producer with:
- 383 (i) a title insurance line of authority; and
- 384 (ii) an escrow subline of authority; or
- 385 (b) a person defined as an escrow agent in Section 7-22-101.
- 386 (58) (a) "Excludes" is not exhaustive and does not mean that another thing is not also
- 387 excluded.
- 388 (b) The items listed in a list using the term "excludes" are representative examples for
- 389 use in interpretation of this title.
- 390 (59) "Exclusion" means for the purposes of accident and health insurance that an
- 391 insurer does not provide insurance coverage, for whatever reason, for one of the following:
- 392 (a) a specific physical condition;
- 393 (b) a specific medical procedure;
- 394 (c) a specific disease or disorder; or
- 395 (d) a specific prescription drug or class of prescription drugs.
- 396 (60) "Expense reimbursement insurance" means insurance:
- 397 (a) written to provide a payment for an expense relating to hospital confinement
- 398 resulting from illness or injury; and
- 399 (b) written:
- 400 (i) as a daily limit for a specific number of days in a hospital; and
- 401 (ii) to have a one or two day waiting period following a hospitalization.
- 402 (61) "Fidelity insurance" means insurance guaranteeing the fidelity of a person holding
- 403 a position of public or private trust.

404 (62) (a) "Filed" means that a filing is:
405 (i) submitted to the department as required by and in accordance with applicable
406 statute, rule, or filing order;
407 (ii) received by the department within the time period provided in applicable statute,
408 rule, or filing order; and
409 (iii) accompanied by the appropriate fee in accordance with:
410 (A) Section 31A-3-103; or
411 (B) rule.
412 (b) "Filed" does not include a filing that is rejected by the department because it is not
413 submitted in accordance with Subsection (62)(a).
414 (63) "Filing," when used as a noun, means an item required to be filed with the
415 department including:
416 (a) a policy;
417 (b) a rate;
418 (c) a form;
419 (d) a document;
420 (e) a plan;
421 (f) a manual;
422 (g) an application;
423 (h) a report;
424 (i) a certificate;
425 (j) an endorsement;
426 (k) an actuarial certification;
427 (l) a licensee annual statement;
428 (m) a licensee renewal application;
429 (n) an advertisement; or
430 (o) an outline of coverage.
431 (64) "First party insurance" means an insurance policy or contract in which the insurer
432 agrees to pay a claim submitted to it by the insured for the insured's losses.
433 (65) "Foreign insurer" means an insurer domiciled outside of this state, including an
434 alien insurer.

435 (66) (a) "Form" means one of the following prepared for general use:

436 (i) a policy;

437 (ii) a certificate;

438 (iii) an application;

439 (iv) an outline of coverage; or

440 (v) an endorsement.

441 (b) "Form" does not include a document specially prepared for use in an individual

442 case.

443 (67) "Franchise insurance" means an individual insurance policy provided through a
444 mass marketing arrangement involving a defined class of persons related in some way other
445 than through the purchase of insurance.

446 (68) "General lines of authority" include:

447 (a) the general lines of insurance in Subsection (69);

448 (b) title insurance under one of the following sublines of authority:

449 (i) search, including authority to act as a title marketing representative;

450 (ii) escrow, including authority to act as a title marketing representative; and

451 (iii) title marketing representative only;

452 (c) surplus lines;

453 (d) workers' compensation; and

454 (e) any other line of insurance that the commissioner considers necessary to recognize
455 in the public interest.

456 (69) "General lines of insurance" include:

457 (a) accident and health;

458 (b) casualty;

459 (c) life;

460 (d) personal lines;

461 (e) property; and

462 (f) variable contracts, including variable life and annuity.

463 (70) "Group health plan" means an employee welfare benefit plan to the extent that the
464 plan provides medical care:

465 (a) (i) to an employee; or

- 466 (ii) to a dependent of an employee; and
467 (b) (i) directly;
468 (ii) through insurance reimbursement; or
469 (iii) through another method.
- 470 (71) (a) "Group insurance policy" means a policy covering a group of persons that is
471 issued:
472 (i) to a policyholder on behalf of the group; and
473 (ii) for the benefit of a member of the group who is selected under a procedure defined
474 in:
475 (A) the policy; or
476 (B) an agreement that is collateral to the policy.
- 477 (b) A group insurance policy may include a member of the policyholder's family or a
478 dependent.
- 479 (72) "Guaranteed automobile protection insurance" means insurance offered in
480 connection with an extension of credit that pays the difference in amount between the
481 insurance settlement and the balance of the loan if the insured automobile is a total loss.
- 482 (73) (a) Except as provided in Subsection (73)(b), "health benefit plan" means a policy
483 or certificate that:
484 (i) provides health care insurance;
485 (ii) provides major medical expense insurance; or
486 (iii) is offered as a substitute for hospital or medical expense insurance, such as:
487 (A) a hospital confinement indemnity; or
488 (B) a limited benefit plan.
- 489 (b) "Health benefit plan" does not include a policy or certificate that:
490 (i) provides benefits solely for:
491 (A) accident;
492 (B) dental;
493 (C) income replacement;
494 (D) long-term care;
495 (E) a Medicare supplement;
496 (F) a specified disease;

- 497 (G) vision; or
498 (H) a short-term limited duration; or
499 (ii) is offered and marketed as supplemental health insurance.
- 500 (74) "Health care" means any of the following intended for use in the diagnosis,
501 treatment, mitigation, or prevention of a human ailment or impairment:
- 502 (a) a professional service;
 - 503 (b) a personal service;
 - 504 (c) a facility;
 - 505 (d) equipment;
 - 506 (e) a device;
 - 507 (f) supplies; or
 - 508 (g) medicine.
- 509 (75) (a) "Health care insurance" or "health insurance" means insurance providing:
- 510 (i) a health care benefit; or
 - 511 (ii) payment of an incurred health care expense.
- 512 (b) "Health care insurance" or "health insurance" does not include accident and health
513 insurance providing a benefit for:
- 514 (i) replacement of income;
 - 515 (ii) short-term accident;
 - 516 (iii) fixed indemnity;
 - 517 (iv) credit accident and health;
 - 518 (v) supplements to liability;
 - 519 (vi) workers' compensation;
 - 520 (vii) automobile medical payment;
 - 521 (viii) no-fault automobile;
 - 522 (ix) equivalent self-insurance; or
 - 523 (x) a type of accident and health insurance coverage that is a part of or attached to
524 another type of policy.
- 525 (76) "Income replacement insurance" or "disability income insurance" means insurance
526 written to provide payments to replace income lost from accident or sickness.
- 527 (77) "Indemnity" means the payment of an amount to offset all or part of an insured

528 loss.

529 (78) "Independent adjuster" means an insurance adjuster required to be licensed under
530 Section 31A-26-201 who engages in insurance adjusting as a representative of an insurer.

531 (79) "Independently procured insurance" means insurance procured under Section
532 31A-15-104.

533 (80) "Individual" means a natural person.

534 (81) "Inland marine insurance" includes insurance covering:

535 (a) property in transit on or over land;

536 (b) property in transit over water by means other than boat or ship;

537 (c) bailee liability;

538 (d) fixed transportation property such as bridges, electric transmission systems, radio
539 and television transmission towers and tunnels; and

540 (e) personal and commercial property floaters.

541 (82) "Insolvency" means that:

542 (a) an insurer is unable to pay its debts or meet its obligations as the debts and
543 obligations mature;

544 (b) an insurer's total adjusted capital is less than the insurer's mandatory control level
545 RBC under Subsection 31A-17-601(8)(c); or

546 (c) an insurer is determined to be hazardous under this title.

547 (83) (a) "Insurance" means:

548 (i) an arrangement, contract, or plan for the transfer of a risk or risks from one or more
549 persons to one or more other persons; or

550 (ii) an arrangement, contract, or plan for the distribution of a risk or risks among a
551 group of persons that includes the person seeking to distribute that person's risk.

552 (b) "Insurance" includes:

553 (i) a risk distributing arrangement providing for compensation or replacement for
554 damages or loss through the provision of a service or a benefit in kind;

555 (ii) a contract of guaranty or suretyship entered into by the guarantor or surety as a
556 business and not as merely incidental to a business transaction; and

557 (iii) a plan in which the risk does not rest upon the person who makes an arrangement,
558 but with a class of persons who have agreed to share the risk.

(84) "Insurance adjuster" means a person who directs the investigation, negotiation, or settlement of a claim under an insurance policy other than life insurance or an annuity, on behalf of an insurer, policyholder, or a claimant under an insurance policy.

(85) "Insurance business" or "business of insurance" includes:

(a) providing health care insurance by an organization that is or is required to be licensed under this title;

(b) providing a benefit to an employee in the event of a contingency not within the control of the employee, in which the employee is entitled to the benefit as a right, which benefit may be provided either:

(i) by a single employer or by multiple employer groups; or

(ii) through one or more trusts, associations, or other entities;

(c) providing an annuity:

(i) including an annuity issued in return for a gift; and

(ii) except an annuity provided by a person specified in Subsections 31A-22-1305(2) and (3);

(d) providing the characteristic services of a motor club as outlined in Subsection (113);

(e) providing another person with insurance;

(f) making as insurer, guarantor, or surety, or proposing to make as insurer, guarantor, or surety, a contract or policy of title insurance;

(g) transacting or proposing to transact any phase of title insurance, including:

(i) solicitation;

(ii) negotiation preliminary to execution;

(iii) execution of a contract of title insurance;

(iv) insuring; ~~and~~

(v) transacting matters subsequent to the execution of the contract and arising out of the contract, including reinsurance; and

(vi) transacting or proposing a life settlement; and

(h) doing, or proposing to do, any business in substance equivalent to Subsections (85)(a) through (g) in a manner designed to evade this title.

(86) "Insurance consultant" or "consultant" means a person who:

590 (a) advises another person about insurance needs and coverages;
591 (b) is compensated by the person advised on a basis not directly related to the insurance
592 placed; and
593 (c) except as provided in Section 31A-23a-501, is not compensated directly or
594 indirectly by an insurer or producer for advice given.

595 (87) "Insurance holding company system" means a group of two or more affiliated
596 persons, at least one of whom is an insurer.

597 (88) (a) "Insurance producer" or "producer" means a person licensed or required to be
598 licensed under the laws of this state to sell, solicit, or negotiate insurance.

599 (b) With regards to the selling, soliciting, or negotiating of an insurance product to an
600 insurance customer or an insured:

601 (i) "producer for the insurer" means a producer who is compensated directly or
602 indirectly by an insurer for selling, soliciting, or negotiating a product of that insurer; and
603 (ii) "producer for the insured" means a producer who:
604 (A) is compensated directly and only by an insurance customer or an insured; and
605 (B) receives no compensation directly or indirectly from an insurer for selling,
606 soliciting, or negotiating a product of that insurer to an insurance customer or insured.

607 (89) (a) "Insured" means a person to whom or for whose benefit an insurer makes a
608 promise in an insurance policy and includes:

609 (i) a policyholder;
610 (ii) a subscriber;
611 (iii) a member; and
612 (iv) a beneficiary.

613 (b) The definition in Subsection (89)(a):
614 (i) applies only to this title; and
615 (ii) does not define the meaning of this word as used in an insurance policy or
616 certificate.

617 (90) (a) "Insurer" means a person doing an insurance business as a principal including:
618 (i) a fraternal benefit society;
619 (ii) an issuer of a gift annuity other than an annuity specified in Subsections
620 31A-22-1305(2) and (3);

- 621 (iii) a motor club;
- 622 (iv) an employee welfare plan; and
- 623 (v) a person purporting or intending to do an insurance business as a principal on that
- 624 person's own account.
- 625 (b) "Insurer" does not include a governmental entity to the extent the governmental
- 626 entity is engaged in an activity described in Section 31A-12-107.
- 627 (91) "Interinsurance exchange" is defined in Subsection (142).
- 628 (92) "Involuntary unemployment insurance" means insurance:
- 629 (a) offered in connection with an extension of credit; and
- 630 (b) that provides indemnity if the debtor is involuntarily unemployed for payments
- 631 coming due on a:
- 632 (i) specific loan; or
- 633 (ii) credit transaction.
- 634 (93) "Large employer," in connection with a health benefit plan, means an employer
- 635 who, with respect to a calendar year and to a plan year:
- 636 (a) employed an average of at least 51 eligible employees on each business day during
- 637 the preceding calendar year; and
- 638 (b) employs at least two employees on the first day of the plan year.
- 639 (94) "Late enrollee," with respect to an employer health benefit plan, means an
- 640 individual whose enrollment is a late enrollment.
- 641 (95) "Late enrollment," with respect to an employer health benefit plan, means
- 642 enrollment of an individual other than:
- 643 (a) on the earliest date on which coverage can become effective for the individual
- 644 under the terms of the plan; or
- 645 (b) through special enrollment.
- 646 (96) (a) Except for a retainer contract or legal assistance described in Section
- 647 31A-1-103, "legal expense insurance" means insurance written to indemnify or pay for a
- 648 specified legal expense.
- 649 (b) "Legal expense insurance" includes an arrangement that creates a reasonable
- 650 expectation of an enforceable right.
- 651 (c) "Legal expense insurance" does not include the provision of, or reimbursement for,

652 legal services incidental to other insurance coverage.

653 (97) (a) "Liability insurance" means insurance against liability:

654 (i) for death, injury, or disability of a human being, or for damage to property,

655 exclusive of the coverages under:

656 (A) Subsection (107) for medical malpractice insurance;

657 (B) Subsection (134) for professional liability insurance; and

658 (C) Subsection (168) for workers' compensation insurance;

659 (ii) for a medical, hospital, surgical, and funeral benefit to a person other than the

660 insured who is injured, irrespective of legal liability of the insured, when issued with or

661 supplemental to insurance against legal liability for the death, injury, or disability of a human

662 being, exclusive of the coverages under:

663 (A) Subsection (107) for medical malpractice insurance;

664 (B) Subsection (134) for professional liability insurance; and

665 (C) Subsection (168) for workers' compensation insurance;

666 (iii) for loss or damage to property resulting from an accident to or explosion of a

667 boiler, pipe, pressure container, machinery, or apparatus;

668 (iv) for loss or damage to property caused by:

669 (A) the breakage or leakage of a sprinkler, water pipe, or water container; or

670 (B) water entering through a leak or opening in a building; or

671 (v) for other loss or damage properly the subject of insurance not within another kind

672 of insurance as defined in this chapter, if the insurance is not contrary to law or public policy.

673 (b) "Liability insurance" includes:

674 (i) vehicle liability insurance;

675 (ii) residential dwelling liability insurance; and

676 (iii) making inspection of, and issuing a certificate of inspection upon, an elevator,

677 boiler, machinery, or apparatus of any kind when done in connection with insurance on the

678 elevator, boiler, machinery, or apparatus.

679 (98) (a) "License" means authorization issued by the commissioner to engage in an
680 activity that is part of or related to the insurance business.

681 (b) "License" includes a certificate of authority issued to an insurer.

682 (99) (a) "Life insurance" means:

- 683 (i) insurance on a human life; and
684 (ii) insurance pertaining to or connected with human life.
685 (b) The business of life insurance includes:
686 (i) granting a death benefit;
687 (ii) granting an annuity benefit;
688 (iii) granting an endowment benefit;
689 (iv) granting an additional benefit in the event of death by accident;
690 (v) granting an additional benefit to safeguard the policy against lapse; and
691 (vi) providing an optional method of settlement of proceeds.
692 (100) "Limited license" means a license that:
693 (a) is issued for a specific product of insurance; and
694 (b) limits an individual or agency to transact only for that product or insurance.
695 (101) "Limited line credit insurance" includes the following forms of insurance:
696 (a) credit life;
697 (b) credit accident and health;
698 (c) credit property;
699 (d) credit unemployment;
700 (e) involuntary unemployment;
701 (f) mortgage life;
702 (g) mortgage guaranty;
703 (h) mortgage accident and health;
704 (i) guaranteed automobile protection; and
705 (j) another form of insurance offered in connection with an extension of credit that:
706 (i) is limited to partially or wholly extinguishing the credit obligation; and
707 (ii) the commissioner determines by rule should be designated as a form of limited line
708 credit insurance.
709 (102) "Limited line credit insurance producer" means a person who sells, solicits, or
710 negotiates one or more forms of limited line credit insurance coverage to an individual through
711 a master, corporate, group, or individual policy.
712 (103) "Limited line insurance" includes:
713 (a) bail bond;

- 714 (b) limited line credit insurance;
715 (c) legal expense insurance;
716 (d) motor club insurance;
717 (e) rental car-related insurance;
718 (f) travel insurance;
719 (g) crop insurance;
720 (h) self-service storage insurance; and
721 (i) another form of limited insurance that the commissioner determines by rule should
722 be designated a form of limited line insurance.
- 723 (104) "Limited lines authority" includes:
724 (a) the lines of insurance listed in Subsection (103); and
725 (b) a customer service representative.
- 726 (105) "Limited lines producer" means a person who sells, solicits, or negotiates limited
727 lines insurance.
- 728 (106) (a) "Long-term care insurance" means an insurance policy or rider advertised,
729 marketed, offered, or designated to provide coverage:
- 730 (i) in a setting other than an acute care unit of a hospital;
731 (ii) for not less than 12 consecutive months for a covered person on the basis of:
732 (A) expenses incurred;
733 (B) indemnity;
734 (C) prepayment; or
735 (D) another method;
736 (iii) for one or more necessary or medically necessary services that are:
737 (A) diagnostic;
738 (B) preventative;
739 (C) therapeutic;
740 (D) rehabilitative;
741 (E) maintenance; or
742 (F) personal care; and
743 (iv) that may be issued by:
744 (A) an insurer;

- 745 (B) a fraternal benefit society;
- 746 (C) (I) a nonprofit health hospital; and
- 747 (II) a medical service corporation;
- 748 (D) a prepaid health plan;
- 749 (E) a health maintenance organization; or
- 750 (F) an entity similar to the entities described in Subsections (106)(a)(iv)(A) through (E)
- 751 to the extent that the entity is otherwise authorized to issue life or health care insurance.
- 752 (b) "Long-term care insurance" includes:
- 753 (i) any of the following that provide directly or supplement long-term care insurance:
- 754 (A) a group or individual annuity or rider; or
- 755 (B) a life insurance policy or rider;
- 756 (ii) a policy or rider that provides for payment of benefits on the basis of:
- 757 (A) cognitive impairment; or
- 758 (B) functional capacity; or
- 759 (iii) a qualified long-term care insurance contract.
- 760 (c) "Long-term care insurance" does not include:
- 761 (i) a policy that is offered primarily to provide basic Medicare supplement coverage;
- 762 (ii) basic hospital expense coverage;
- 763 (iii) basic medical/surgical expense coverage;
- 764 (iv) hospital confinement indemnity coverage;
- 765 (v) major medical expense coverage;
- 766 (vi) income replacement or related asset-protection coverage;
- 767 (vii) accident only coverage;
- 768 (viii) coverage for a specified:
- 769 (A) disease; or
- 770 (B) accident;
- 771 (ix) limited benefit health coverage; or
- 772 (x) a life insurance policy that accelerates the death benefit to provide the option of a
- 773 lump sum payment:
- 774 (A) if the following are not conditioned on the receipt of long-term care:
- 775 (I) benefits; or

- 776 (II) eligibility; and
- 777 (B) the coverage is for one or more the following qualifying events:
- 778 (I) terminal illness;
- 779 (II) medical conditions requiring extraordinary medical intervention; or
- 780 (III) permanent institutional confinement.
- 781 (107) "Medical malpractice insurance" means insurance against legal liability incident
- 782 to the practice and provision of a medical service other than the practice and provision of a
- 783 dental service.
- 784 (108) "Member" means a person having membership rights in an insurance
- 785 corporation.
- 786 (109) "Minimum capital" or "minimum required capital" means the capital that must be
- 787 constantly maintained by a stock insurance corporation as required by statute.
- 788 (110) "Mortgage accident and health insurance" means insurance offered in connection
- 789 with an extension of credit that provides indemnity for payments coming due on a mortgage
- 790 while the debtor is disabled.
- 791 (111) "Mortgage guaranty insurance" means surety insurance under which a mortgagee
- 792 or other creditor is indemnified against losses caused by the default of a debtor.
- 793 (112) "Mortgage life insurance" means insurance on the life of a debtor in connection
- 794 with an extension of credit that pays if the debtor dies.
- 795 (113) "Motor club" means a person:
- 796 (a) licensed under:
- 797 (i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;
- 798 (ii) Chapter 11, Motor Clubs; or
- 799 (iii) Chapter 14, Foreign Insurers; and
- 800 (b) that promises for an advance consideration to provide for a stated period of time
- 801 one or more:
- 802 (i) legal services under Subsection 31A-11-102(1)(b);
- 803 (ii) bail services under Subsection 31A-11-102(1)(c); or
- 804 (iii) (A) trip reimbursement;
- 805 (B) towing services;
- 806 (C) emergency road services;

- 807 (D) stolen automobile services;
- 808 (E) a combination of the services listed in Subsections (113)(b)(iii)(A) through (D); or
- 809 (F) other services given in Subsections 31A-11-102(1)(b) through (f).
- 810 (114) "Mutual" means a mutual insurance corporation.
- 811 (115) "Network plan" means health care insurance:
- 812 (a) that is issued by an insurer; and
- 813 (b) under which the financing and delivery of medical care is provided, in whole or in
- 814 part, through a defined set of providers under contract with the insurer, including the financing
- 815 and delivery of an item paid for as medical care.
- 816 (116) "Nonparticipating" means a plan of insurance under which the insured is not
- 817 entitled to receive a dividend representing a share of the surplus of the insurer.
- 818 (117) "Ocean marine insurance" means insurance against loss of or damage to:
- 819 (a) ships or hulls of ships;
- 820 (b) goods, freight, cargoes, merchandise, effects, disbursements, profits, moneys,
- 821 securities, choses in action, evidences of debt, valuable papers, bottomry, respondentia
- 822 interests, or other cargoes in or awaiting transit over the oceans or inland waterways;
- 823 (c) earnings such as freight, passage money, commissions, or profits derived from
- 824 transporting goods or people upon or across the oceans or inland waterways; or
- 825 (d) a vessel owner or operator as a result of liability to employees, passengers, bailors,
- 826 owners of other vessels, owners of fixed objects, customs or other authorities, or other persons
- 827 in connection with maritime activity.
- 828 (118) "Order" means an order of the commissioner.
- 829 (119) "Outline of coverage" means a summary that explains an accident and health
- 830 insurance policy.
- 831 (120) "Participating" means a plan of insurance under which the insured is entitled to
- 832 receive a dividend representing a share of the surplus of the insurer.
- 833 (121) "Participation," as used in a health benefit plan, means a requirement relating to
- 834 the minimum percentage of eligible employees that must be enrolled in relation to the total
- 835 number of eligible employees of an employer reduced by each eligible employee who
- 836 voluntarily declines coverage under the plan because the employee:
- 837 (a) has other group health care insurance coverage; or

- 838 (b) receives:
- 839 (i) Medicare, under the Health Insurance for the Aged Act, Title XVIII of the Social
- 840 Security Amendments of 1965; or
- 841 (ii) another government health benefit.
- 842 (122) "Person" includes:
- 843 (a) an individual;
- 844 (b) a partnership;
- 845 (c) a corporation;
- 846 (d) an incorporated or unincorporated association;
- 847 (e) a joint stock company;
- 848 (f) a trust;
- 849 (g) a limited liability company;
- 850 (h) a reciprocal;
- 851 (i) a syndicate; or
- 852 (j) another similar entity or combination of entities acting in concert.
- 853 (123) "Personal lines insurance" means property and casualty insurance coverage sold
- 854 for primarily noncommercial purposes to:
- 855 (a) an individual; or
- 856 (b) a family.
- 857 (124) "Plan sponsor" is as defined in 29 U.S.C. Sec. 1002(16)(B).
- 858 (125) "Plan year" means:
- 859 (a) the year that is designated as the plan year in:
- 860 (i) the plan document of a group health plan; or
- 861 (ii) a summary plan description of a group health plan;
- 862 (b) if the plan document or summary plan description does not designate a plan year or
- 863 there is no plan document or summary plan description:
- 864 (i) the year used to determine deductibles or limits;
- 865 (ii) the policy year, if the plan does not impose deductibles or limits on a yearly basis;
- 866 or
- 867 (iii) the employer's taxable year if:
- 868 (A) the plan does not impose deductibles or limits on a yearly basis; and

- 869 (B) (I) the plan is not insured; or
870 (II) the insurance policy is not renewed on an annual basis; or
871 (c) in a case not described in Subsection (125)(a) or (b), the calendar year.
- 872 (126) (a) "Policy" means a document, including ~~any~~ an attached endorsement or
873 application that:
- 874 (i) purports to be an enforceable contract; and
875 (ii) memorializes in writing some or all of the terms of an insurance contract.
- 876 (b) "Policy" includes a service contract issued by:
- 877 (i) a motor club under Chapter 11, Motor Clubs;
878 (ii) a service contract provided under Chapter 6a, Service Contracts; and
879 (iii) a corporation licensed under:
- 880 (A) Chapter 7, Nonprofit Health Service Insurance Corporations; or
881 (B) Chapter 8, Health Maintenance Organizations and Limited Health Plans.
- 882 (c) "Policy" does not include:
- 883 (i) a certificate under a group insurance contract; or
884 (ii) a document that does not purport to have legal effect.
- 885 (127) "Policyholder" means a person who controls a policy, binder, or oral contract by
886 ownership, premium payment, or otherwise.
- 887 (128) "Policy illustration" means a presentation or depiction that includes
888 nonguaranteed elements of a policy of life insurance over a period of years.
- 889 (129) "Policy summary" means a synopsis describing the elements of a life insurance
890 policy.
- 891 (130) "Preexisting condition," with respect to a health benefit plan:
- 892 (a) means a condition that was present before the effective date of coverage, whether or
893 not medical advice, diagnosis, care, or treatment was recommended or received before that day;
894 and
- 895 (b) does not include a condition indicated by genetic information unless an actual
896 diagnosis of the condition by a physician has been made.
- 897 (131) (a) "Premium" means the monetary consideration for an insurance policy.
- 898 (b) "Premium" includes, however designated:
- 899 (i) an assessment;

900 (ii) a membership fee;
901 (iii) a required contribution; or
902 (iv) monetary consideration.

903 (c) (i) "Premium" does not include consideration paid to a third party administrator for
904 the third party administrator's services.

905 (ii) "Premium" includes an amount paid by a third party administrator to an insurer for
906 insurance on the risks administered by the third party administrator.

907 (132) "Principal officers" for a corporation means the officers designated under
908 Subsection 31A-5-203(3).

909 (133) "Proceeding" includes an action or special statutory proceeding.

910 (134) "Professional liability insurance" means insurance against legal liability incident
911 to the practice of a profession and provision of a professional service.

912 (135) (a) Except as provided in Subsection (135)(b), "property insurance" means
913 insurance against loss or damage to real or personal property of every kind and any interest in
914 that property:

915 (i) from all hazards or causes; and
916 (ii) against loss consequential upon the loss or damage including vehicle
917 comprehensive and vehicle physical damage coverages.

918 (b) "Property insurance" does not include:

919 (i) inland marine insurance; and
920 (ii) ocean marine insurance.

921 (136) "Qualified long-term care insurance contract" or "federally tax qualified
922 long-term care insurance contract" means:

923 (a) an individual or group insurance contract that meets the requirements of Section
924 7702B(b), Internal Revenue Code; or

925 (b) the portion of a life insurance contract that provides long-term care insurance:

926 (i) (A) by rider; or
927 (B) as a part of the contract; and
928 (ii) that satisfies the requirements of Sections 7702B(b) and (e), Internal Revenue
929 Code.

930 (137) "Qualified United States financial institution" means an institution that:

- 931 (a) is:
- 932 (i) organized under the laws of the United States or any state; or
- 933 (ii) in the case of a United States office of a foreign banking organization, licensed
- 934 under the laws of the United States or any state;
- 935 (b) is regulated, supervised, and examined by a United States federal or state authority
- 936 having regulatory authority over a bank or trust company; and
- 937 (c) meets the standards of financial condition and standing that are considered
- 938 necessary and appropriate to regulate the quality of a financial institution whose letters of credit
- 939 will be acceptable to the commissioner as determined by:
- 940 (i) the commissioner by rule; or
- 941 (ii) the Securities Valuation Office of the National Association of Insurance
- 942 Commissioners.
- 943 (138) (a) "Rate" means:
- 944 (i) the cost of a given unit of insurance; or
- 945 (ii) for property or casualty insurance, that cost of insurance per exposure unit either
- 946 expressed as:
- 947 (A) a single number; or
- 948 (B) a pure premium rate, adjusted before the application of individual risk variations
- 949 based on loss or expense considerations to account for the treatment of:
- 950 (I) expenses;
- 951 (II) profit; and
- 952 (III) individual insurer variation in loss experience.
- 953 (b) "Rate" does not include a minimum premium.
- 954 (139) (a) Except as provided in Subsection (139)(b), "rate service organization" means
- 955 a person who assists an insurer in rate making or filing by:
- 956 (i) collecting, compiling, and furnishing loss or expense statistics;
- 957 (ii) recommending, making, or filing rates or supplementary rate information; or
- 958 (iii) advising about rate questions, except as an attorney giving legal advice.
- 959 (b) "Rate service organization" does not mean:
- 960 (i) an employee of an insurer;
- 961 (ii) a single insurer or group of insurers under common control;

- 962 (iii) a joint underwriting group; or
- 963 (iv) an individual serving as an actuarial or legal consultant.
- 964 (140) "Rating manual" means any of the following used to determine initial and
- 965 renewal policy premiums:
- 966 (a) a manual of rates;
- 967 (b) a classification;
- 968 (c) a rate-related underwriting rule; and
- 969 (d) a rating formula that describes steps, policies, and procedures for determining
- 970 initial and renewal policy premiums.
- 971 (141) "Received by the department" means:
- 972 (a) the date delivered to and stamped received by the department, if delivered in
- 973 person;
- 974 (b) the post mark date, if delivered by mail;
- 975 (c) the delivery service's post mark or pickup date, if delivered by a delivery service;
- 976 (d) the received date recorded on an item delivered, if delivered by:
- 977 (i) facsimile;
- 978 (ii) email; or
- 979 (iii) another electronic method; or
- 980 (e) a date specified in:
- 981 (i) a statute;
- 982 (ii) a rule; or
- 983 (iii) an order.
- 984 (142) "Reciprocal" or "interinsurance exchange" means an unincorporated association
- 985 of persons:
- 986 (a) operating through an attorney-in-fact common to all of the persons; and
- 987 (b) exchanging insurance contracts with one another that provide insurance coverage
- 988 on each other.
- 989 (143) "Reinsurance" means an insurance transaction where an insurer, for
- 990 consideration, transfers any portion of the risk it has assumed to another insurer. In referring to
- 991 reinsurance transactions, this title sometimes refers to:
- 992 (a) the insurer transferring the risk as the "ceding insurer"; and

993 (b) the insurer assuming the risk as the:

994 (i) "assuming insurer"; or

995 (ii) "assuming reinsurer."

996 (144) "Reinsurer" means a person licensed in this state as an insurer with the authority
997 to assume reinsurance.

998 (145) "Residential dwelling liability insurance" means insurance against liability
999 resulting from or incident to the ownership, maintenance, or use of a residential dwelling that is
1000 a detached single family residence or multifamily residence up to four units.

1001 (146) (a) "Retrocession" means reinsurance with another insurer of a liability assumed
1002 under a reinsurance contract.

1003 (b) A reinsurer "retrocedes" when the reinsurer reinsures with another insurer part of a
1004 liability assumed under a reinsurance contract.

1005 (147) "Rider" means an endorsement to:

1006 (a) an insurance policy; or

1007 (b) an insurance certificate.

1008 (148) (a) "Security" means a:

1009 (i) note;

1010 (ii) stock;

1011 (iii) bond;

1012 (iv) debenture;

1013 (v) evidence of indebtedness;

1014 (vi) certificate of interest or participation in a profit-sharing agreement;

1015 (vii) collateral-trust certificate;

1016 (viii) preorganization certificate or subscription;

1017 (ix) transferable share;

1018 (x) investment contract;

1019 (xi) voting trust certificate;

1020 (xii) certificate of deposit for a security;

1021 (xiii) certificate of interest of participation in an oil, gas, or mining title or lease or in
1022 payments out of production under such a title or lease;

1023 (xiv) commodity contract or commodity option;

1024 (xv) certificate of interest or participation in, temporary or interim certificate for,
1025 receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the items listed
1026 in Subsections (148)(a)(i) through (xiv); or
1027 (xvi) another interest or instrument commonly known as a security.
1028 (b) "Security" does not include:
1029 (i) any of the following under which an insurance company promises to pay money in a
1030 specific lump sum or periodically for life or some other specified period:
1031 (A) insurance;
1032 (B) an endowment policy; or
1033 (C) an annuity contract; or
1034 (ii) a burial certificate or burial contract.
1035 (149) "Secondary medical condition" means a complication related to an exclusion
1036 from coverage in accident and health insurance.
1037 (150) "Self-insurance" means an arrangement under which a person provides for
1038 spreading its own risks by a systematic plan.
1039 (a) Except as provided in this Subsection (150), "self-insurance" does not include an
1040 arrangement under which a number of persons spread their risks among themselves.
1041 (b) "Self-insurance" includes:
1042 (i) an arrangement by which a governmental entity undertakes to indemnify an
1043 employee for liability arising out of the employee's employment; and
1044 (ii) an arrangement by which a person with a managed program of self-insurance and
1045 risk management undertakes to indemnify its affiliates, subsidiaries, directors, officers, or
1046 employees for liability or risk that is related to the relationship or employment.
1047 (c) "Self-insurance" does not include an arrangement with an independent contractor.
1048 (151) "Sell" means to exchange a contract of insurance:
1049 (a) by any means;
1050 (b) for money or its equivalent; and
1051 (c) on behalf of an insurance company.
1052 (152) "Short-term care insurance" means an insurance policy or rider advertised,
1053 marketed, offered, or designed to provide coverage that is similar to long-term care insurance,
1054 but that provides coverage for less than 12 consecutive months for each covered person.

1055 (153) "Significant break in coverage" means a period of 63 consecutive days during
1056 each of which an individual does not have creditable coverage.

1057 (154) "Small employer," in connection with a health benefit plan, means an employer
1058 who, with respect to a calendar year and to a plan year:

1059 (a) employed an average of at least two employees but not more than 50 eligible
1060 employees on each business day during the preceding calendar year; and

1061 (b) employs at least two employees on the first day of the plan year.

1062 (155) "Special enrollment period," in connection with a health benefit plan, has the
1063 same meaning as provided in federal regulations adopted pursuant to the Health Insurance
1064 Portability and Accountability Act of 1996, Pub. L. ~~No.~~ 104-191, 110 Stat. 1936.

1065 (156) (a) "Subsidiary" of a person means an affiliate controlled by that person either
1066 directly or indirectly through one or more affiliates or intermediaries.

1067 (b) "Wholly owned subsidiary" of a person is a subsidiary of which all of the voting
1068 shares are owned by that person either alone or with its affiliates, except for the minimum
1069 number of shares the law of the subsidiary's domicile requires to be owned by directors or
1070 others.

1071 (157) Subject to Subsection (83)(b), "surety insurance" includes:

1072 (a) a guarantee against loss or damage resulting from the failure of a principal to pay or
1073 perform the principal's obligations to a creditor or other obligee;

1074 (b) bail bond insurance; and

1075 (c) fidelity insurance.

1076 (158) (a) "Surplus" means the excess of assets over the sum of paid-in capital and
1077 liabilities.

1078 (b) (i) "Permanent surplus" means the surplus of a mutual insurer that is designated by
1079 the insurer as permanent.

1080 (ii) Sections 31A-5-211, 31A-7-201, 31A-8-209, 31A-9-209, and 31A-14-209 require
1081 that mutuals doing business in this state maintain specified minimum levels of permanent
1082 surplus.

1083 (iii) Except for assessable mutuals, the minimum permanent surplus requirement is the
1084 same as the minimum required capital requirement that applies to stock insurers.

1085 (c) "Excess surplus" means:

1086 (i) for a life insurer, accident and health insurer, health organization, or property and
1087 casualty insurer as defined in Section 31A-17-601, the lesser of:

1088 (A) that amount of an insurer's or health organization's total adjusted capital that
1089 exceeds the product of:

1090 (I) 2.5; and

1091 (II) the sum of the insurer's or health organization's minimum capital or permanent
1092 surplus required under Section 31A-5-211, 31A-9-209, or 31A-14-205; or

1093 (B) that amount of an insurer's or health organization's total adjusted capital that
1094 exceeds the product of:

1095 (I) 3.0; and

1096 (II) the authorized control level RBC as defined in Subsection 31A-17-601(8)(a); and

1097 (ii) for a monoline mortgage guaranty insurer, financial guaranty insurer, or title insurer
1098 that amount of an insurer's paid-in-capital and surplus that exceeds the product of:

1099 (A) 1.5; and

1100 (B) the insurer's total adjusted capital required by Subsection 31A-17-609(1).

1101 (159) "Third party administrator" or "administrator" means a person who collects
1102 charges or premiums from, or who, for consideration, adjusts or settles claims of residents of
1103 the state in connection with insurance coverage, annuities, or service insurance coverage,
1104 except:

1105 (a) a union on behalf of its members;

1106 (b) a person administering a:

1107 (i) pension plan subject to the federal Employee Retirement Income Security Act of
1108 1974;

1109 (ii) governmental plan as defined in Section 414(d), Internal Revenue Code; or

1110 (iii) nonelecting church plan as described in Section 410(d), Internal Revenue Code;

1111 (c) an employer on behalf of the employer's employees or the employees of one or
1112 more of the subsidiary or affiliated corporations of the employer;

1113 (d) an insurer licensed under Chapter 5, 7, 8, 9, or 14, but only for a line of insurance
1114 for which the insurer holds a license in this state; or

1115 (e) a person:

1116 (i) licensed or exempt from licensing under:

1117 (A) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and
1118 Reinsurance Intermediaries; or

1119 (B) Chapter 26, Insurance Adjusters; and

1120 (ii) whose activities are limited to those authorized under the license the person holds
1121 or for which the person is exempt.

1122 (160) "Title insurance" means the insuring, guaranteeing, or indemnifying of an owner
1123 of real or personal property or the holder of liens or encumbrances on that property, or others
1124 interested in the property against loss or damage suffered by reason of liens or encumbrances
1125 upon, defects in, or the unmarketability of the title to the property, or invalidity or
1126 unenforceability of any liens or encumbrances on the property.

1127 (161) "Total adjusted capital" means the sum of an insurer's or health organization's
1128 statutory capital and surplus as determined in accordance with:

1129 (a) the statutory accounting applicable to the annual financial statements required to be
1130 filed under Section 31A-4-113; and

1131 (b) another item provided by the RBC instructions, as RBC instructions is defined in
1132 Section 31A-17-601.

1133 (162) (a) "Trustee" means "director" when referring to the board of directors of a
1134 corporation.

1135 (b) "Trustee," when used in reference to an employee welfare fund, means an
1136 individual, firm, association, organization, joint stock company, or corporation, whether acting
1137 individually or jointly and whether designated by that name or any other, that is charged with
1138 or has the overall management of an employee welfare fund.

1139 (163) (a) "Unauthorized insurer," "unadmitted insurer," or "nonadmitted insurer"
1140 means an insurer:

1141 (i) not holding a valid certificate of authority to do an insurance business in this state;
1142 or

1143 (ii) transacting business not authorized by a valid certificate.

1144 (b) "Admitted insurer" or "authorized insurer" means an insurer:

1145 (i) holding a valid certificate of authority to do an insurance business in this state; and

1146 (ii) transacting business as authorized by a valid certificate.

1147 (164) "Underwrite" means the authority to accept or reject risk on behalf of the insurer.

(165) "Vehicle liability insurance" means insurance against liability resulting from or incident to ownership, maintenance, or use of a land vehicle or aircraft, exclusive of a vehicle comprehensive or vehicle physical damage coverage under Subsection (135).

(166) "Voting security" means a security with voting rights, and includes a security convertible into a security with a voting right associated with the security.

(167) "Waiting period" for a health benefit plan means the period that must pass before coverage for an individual, who is otherwise eligible to enroll under the terms of the health benefit plan, can become effective.

(168) "Workers' compensation insurance" means:

(a) insurance for indemnification of an employer against liability for compensation based on:

(i) a compensable accidental injury; and

(ii) occupational disease disability;

(b) employer's liability insurance incidental to workers' compensation insurance and written in connection with workers' compensation insurance; and

(c) insurance assuring to a person entitled to workers' compensation benefits the compensation provided by law.

Section 2. Section **31A-2-403** is amended to read:

31A-2-403. Title and Escrow Commission created.

(1) (a) Subject to Subsection (1)(b), there is created within the department the Title and Escrow Commission that is comprised of five members appointed by the governor with the consent of the Senate as follows:

(i) four members shall each:

(A) be or have been licensed under the title insurance line of authority; ~~and~~

(B) as of the day on which the member is appointed, be or have been licensed with the search or escrow subline of authority for at least five years; and

(C) as of the day on which the member is appointed, not be from the same county as another member appointed under this Subsection (1)(a)(i); and

(ii) one member shall be a member of the general public from any county in the state.

(b) No more than one commission member may be appointed from a single company.

(2) (a) Subject to Subsection (2)(c), a ~~[member of the]~~ commission member shall file

with the ~~[department]~~ commissioner a disclosure of any position of employment or ownership interest that the ~~[member of the]~~ commission member has with respect to a person that is subject to the jurisdiction of the ~~[department]~~ commissioner.

(b) The disclosure statement required by this Subsection (2) shall be:

(i) filed by no later than the day on which the person begins that person's appointment;

and

(ii) amended when a significant change occurs in any matter required to be disclosed under this Subsection (2).

(c) A ~~[member of the]~~ commission member is not required to disclose an ownership interest that the ~~[member of the]~~ commission member has if the ownership interest is held as part of a mutual fund, trust, or similar investment.

(3) (a) Except as required by Subsection (3)(b), as terms of current commission members expire, the governor shall appoint each new commission member to a four-year term ending on June 30.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment, adjust the length of terms to ensure that the terms of the commission members are staggered so that approximately half of the commission is appointed every two years.

(c) A commission member may not serve more than one consecutive term.

(d) When a vacancy occurs in the membership for any reason, the governor, with the consent of the Senate, shall appoint a replacement for the unexpired term.

(e) Notwithstanding the other provisions of this Subsection (3), a commission member serves until a successor is appointed by the governor with the consent of the Senate.

(4) (a) A ~~[member of the]~~ commission member may not receive compensation or benefits for the commission member's services, but may receive per diem and expenses incurred in the performance of the commission member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(b) A commission member may decline to receive per diem and expenses for the commission member's service.

(5) Members of the commission shall annually select one commission member to serve as chair.

1210 (6) (a) The commission shall meet at least monthly.
1211 (b) The commissioner may call additional meetings:
1212 (i) at the commissioner's discretion;
1213 (ii) upon the request of the chair of the commission; or
1214 (iii) upon the written request of three or more commission members.
1215 (c) (i) Three [~~members of the~~] commission members constitute a quorum for the
1216 transaction of business.
1217 (ii) The action of a majority of the commission members when a quorum is present is
1218 the action of the commission.
1219 (7) The [~~department~~] commissioner shall staff the commission.
1220 Section 3. Section **31A-2-404** is amended to read:
1221 **31A-2-404. Duties of the commissioner and Title and Escrow Commission.**
1222 (1) Notwithstanding the other provisions of this chapter, to the extent provided in this
1223 part, the commissioner shall administer and enforce the provisions in this title related to:
1224 (a) title insurance; and
1225 (b) escrow conducted by a title licensee or title insurer.
1226 (2) The commission shall:
1227 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and
1228 subject to Subsection (3), make rules for the administration of the provisions in this title related
1229 to title insurance including rules related to:
1230 (i) rating standards and rating methods for a title [~~agencies and producers~~] licensee, as
1231 provided in Section 31A-19a-209;
1232 (ii) the licensing for a title licensee, including the licensing requirements of Sections
1233 31A-23a-203 and 31A-23a-204;
1234 (iii) continuing education requirements of Section 31A-23a-202;
1235 (iv) examination procedures, after consultation with the [~~department~~] commissioner
1236 and the [~~department's~~] commissioner's test administrator when required by Section
1237 31A-23a-204; and
1238 (v) standards of conduct for a title licensee;
1239 (b) concur in the issuance and renewal of [~~licenses~~] a license in accordance with
1240 Section 31A-23a-105 or 31A-26-203;

1241 (c) in accordance with Section 31A-3-103, establish, with the concurrence of the
1242 ~~[department]~~ commissioner, ~~[all]~~ the fees imposed by this title on a title licensee;

1243 (d) in accordance with Section 31A-23a-415 determine, after consulting with the
1244 commissioner, the assessment on a title insurer as defined in Section 31A-23a-415;

1245 (e) conduct ~~[all]~~ an administrative ~~[hearings]~~ hearing not delegated by the commission
1246 to an administrative law judge related to the:

1247 (i) licensing of ~~[any]~~ an applicant;

1248 (ii) conduct of ~~[any]~~ a title licensee; or

1249 (iii) approval of a continuing education ~~[programs]~~ program required by Section
1250 31A-23a-202;

1251 ~~[(f) with the concurrence of the commissioner, approve assets that can be included in a~~
1252 ~~reserve fund required by Section 31A-23a-204;]~~

1253 ~~[(g)]~~ (f) with the concurrence of the commissioner, approve a continuing education
1254 ~~[programs]~~ program required by Section 31A-23a-202;

1255 ~~[(h)]~~ (g) with the concurrence of the commissioner, impose ~~[penalties]~~ a penalty:

1256 (i) under this title related to:

1257 (A) title insurance; or

1258 (B) escrow conducted by a title licensee;

1259 (ii) after investigation by the ~~[department]~~ commissioner in accordance with Part 3,
1260 Procedures and Enforcement; and

1261 (iii) that ~~[are]~~ is enforced by the commissioner;

1262 ~~[(+)]~~ (h) advise the commissioner on the administration and enforcement of any
1263 ~~[matters]~~ matter affecting the title insurance industry;

1264 ~~[(+)]~~ (i) advise the commissioner on matters affecting the ~~[department's]~~
1265 commissioner's budget related to title insurance; and

1266 ~~[(+)]~~ (j) perform other duties as provided in this title.

1267 (3) The commission may make a rule under this title only if at the time the commission
1268 files its proposed rule and rule analysis with the Division of Administrative Rules in
1269 accordance with Section 63G-3-301, the commission provides the Real Estate Commission that
1270 same information.

1271 (4) (a) The commissioner shall annually report the information described in Subsection

1272 (4)(b) in writing to:

1273 (i) the commission; and

1274 (ii) the Business and Labor Interim Committee.

1275 (b) The information required to be reported under this Subsection (4):

1276 (i) may not identify a person; and

1277 (ii) shall include:

1278 (A) the number of complaints the ~~[department]~~ commissioner receives with regard to
1279 transactions involving title insurance or a title licensee during the calendar year immediately
1280 proceeding the report;

1281 (B) the type of complaints described in Subsection (4)(b)(ii)(A); and

1282 (C) for each complaint described in Subsection (4)(b)(ii)(A):

1283 (I) any action taken by the ~~[department]~~ commissioner with regard to the complaint;

1284 and

1285 (II) the time-period beginning the day on which a complaint is made and ending the
1286 day on which the ~~[department]~~ commissioner determines it will take no further action with
1287 regard to the complaint.

1288 Section 4. Section **31A-3-103** is amended to read:

1289 **31A-3-103. Fees.**

1290 (1) For purposes of this section~~[-(a) "Services"]~~, "services" means functions that are
1291 reasonable and necessary to enable the commissioner to perform the duties imposed by this title
1292 including:

1293 ~~[(i)]~~ (a) issuing ~~[and] or~~ renewing ~~[licenses and certificates]~~ a license or certificate of
1294 authority;

1295 ~~[(ii)]~~ (b) filing a policy ~~[forms]~~ form;

1296 ~~[(iii)]~~ (c) reporting ~~[agent appointments and terminations]~~ a producer appointment or
1297 termination; and

1298 ~~[(iv)]~~ (d) filing an annual ~~[statements]~~ statement.

1299 (2) Except as otherwise provided by this title:

1300 (a) the commissioner may set and collect a fee for services provided by the
1301 commissioner;

1302 (b) ~~[Fees]~~ a fee related to the renewal of ~~[licenses]~~ a license may be imposed no more

1303 frequently than once each year[:]; and

1304 ~~[(2) A]~~ (c) a fee charged by the ~~[department]~~ commissioner shall be set in accordance
1305 with Section 63J-1-504.

1306 (3) (a) A fee ~~[approved by the Legislature]~~ established pursuant to this section shall be
1307 deposited into the General Fund for appropriation by the Legislature.

1308 (b) A fee ~~[approved]~~ established pursuant to this section that relates to the use of
1309 electronic or other similar technology to provide the services of the ~~[department]~~ commissioner
1310 shall be deposited into the General Fund as a dedicated credit to be used by the ~~[department]~~
1311 commissioner to provide services through use of electronic commerce or other similar
1312 technology.

1313 (4) (a) The commissioner shall ~~[separately]~~ publish ~~[the]~~ a schedule of fees ~~[approved~~
1314 ~~by the Legislature and make it available upon request for \$1 per copy. This fee schedule shall~~
1315 ~~also be included in any compilation of rules promulgated by the commissioner]~~ established
1316 pursuant to this section.

1317 ~~[(5)]~~ (b) The commissioner shall, by rule, establish the deadlines for payment of ~~[any]~~
1318 a fee established [by the department in accordance with] pursuant to this section.

1319 Section 5. Section **31A-3-104** is amended to read:

1320 **31A-3-104. Electronic commerce dedicated fees.**

1321 (1) The ~~[department]~~ commissioner may charge a fee for requests for information:

1322 (a) that is obtained from an electronic database of the ~~[department]~~ commissioner; or

1323 (b) derived from data that is generated by electronic means.

1324 (2) In addition to any fee authorized in this title, the ~~[department]~~ commissioner shall
1325 impose a supplemental fee on the issuance or renewal of any of the following issued by the
1326 department:

1327 (a) a license;

1328 (b) a registration; or

1329 (c) a certificate of authority.

1330 (3) A fee imposed under this section shall be:

1331 (a) established in accordance with ~~[Subsection 31A-3-103(3)]~~ Section 31A-3-103; and

1332 (b) deposited into the General Fund as a dedicated credit in accordance with

1333 Subsection 31A-3-103(3).

1334 Section 6. Section **31A-3-304 (Superseded 07/01/10)** is amended to read:

1335 **31A-3-304 (Superseded 07/01/10). Annual fees -- Other taxes or fees prohibited.**

1336 (1) (a) A captive insurance company shall pay an annual fee imposed under this section
1337 to obtain or renew a certificate of authority.

1338 (b) The commissioner shall:

1339 (i) determine the annual fee pursuant to [~~Sections-~~] Section 31A-3-103 [~~and~~
1340 ~~63J-1-504~~]; and

1341 (ii) consider whether the annual fee is competitive with fees imposed by other states on
1342 captive insurance companies.

1343 (2) A captive insurance company that fails to pay the fee required by this section is
1344 subject to the relevant sanctions of this title.

1345 (3) (a) Except as provided in Subsection (3)(b) and notwithstanding Title 59, Chapter
1346 9, Taxation of Admitted Insurers, the fee provided for in this section constitutes the sole tax or
1347 fee under the laws of this state that may be otherwise levied or assessed on a captive insurance
1348 company, and no other occupation tax or other tax or fee may be levied or collected from a
1349 captive insurance company by the state or a county, city, or municipality within this state.

1350 (b) Notwithstanding Subsection (3)(a), a captive insurance company is subject to real
1351 and personal property taxes.

1352 (4) A captive insurance company shall pay the fee imposed by this section to the
1353 [~~department~~] commissioner by March 31 of each year.

1354 (5) (a) The funds received pursuant to Subsection (2) shall be deposited into the
1355 General Fund as a dedicated credit to be used by the [~~department~~] commissioner to:

1356 (i) administer and enforce Chapter 37, Captive Insurance Companies Act; and

1357 (ii) promote the captive insurance industry in Utah.

1358 (b) At the end of each fiscal year, funds received by the [~~department~~] commissioner in
1359 excess of \$250,000 shall be treated as free revenue in the General Fund.

1360 Section 7. Section **31A-3-304 (Effective 07/01/10)** is amended to read:

1361 **31A-3-304 (Effective 07/01/10). Annual fees -- Other taxes or fees prohibited.**

1362 (1) (a) A captive insurance company shall pay an annual fee imposed under this section
1363 to obtain or renew a certificate of authority.

1364 (b) The commissioner shall:

1365 (i) determine the annual fee pursuant to ~~[Sections]~~ Section 31A-3-103 ~~[and~~
1366 ~~63J-1-504]~~; and

1367 (ii) consider whether the annual fee is competitive with fees imposed by other states on
1368 captive insurance companies.

1369 (2) A captive insurance company that fails to pay the fee required by this section is
1370 subject to the relevant sanctions of this title.

1371 (3) (a) Except as provided in Subsection (3)(b) and notwithstanding Title 59, Chapter
1372 9, Taxation of Admitted Insurers, the fee provided for in this section constitutes the sole tax or
1373 fee under the laws of this state that may be otherwise levied or assessed on a captive insurance
1374 company, and no other occupation tax or other tax or fee may be levied or collected from a
1375 captive insurance company by the state or a county, city, or municipality within this state.

1376 (b) Notwithstanding Subsection (3)(a), a captive insurance company is subject to real
1377 and personal property taxes.

1378 (4) A captive insurance company shall pay the fee imposed by this section to the
1379 ~~[department]~~ commissioner by March 31 of each year.

1380 (5) (a) The funds received pursuant to Subsection (2) shall be deposited into the
1381 General Fund as a dedicated credit to be used by the ~~[department]~~ commissioner to:

1382 (i) administer and enforce Chapter 37, Captive Insurance Companies Act; and
1383 (ii) promote the captive insurance industry in Utah.

1384 (b) At the end of each fiscal year, funds received by the ~~[department]~~ commissioner in
1385 excess of \$750,000 shall be treated as free revenue in the General Fund.

1386 Section 8. Section **31A-5-217.5** is amended to read:

1387 **31A-5-217.5. Variable contract law.**

1388 (1) This section applies to ~~[all]~~ a separate ~~[accounts]~~ account that ~~[are]~~ is used to
1389 support ~~[any]~~ one or more of the following:

1390 (a) a variable life insurance ~~[policies]~~ policy that ~~[satisfy]~~ satisfies the requirements of
1391 Section 817, Internal Revenue Code;

1392 (b) a variable annuity ~~[contracts]~~ policy, including a modified guaranteed ~~[annuities]~~
1393 annuity; or

1394 (c) benefits under ~~[plans]~~ a plan governed by the Employee Retirement Income
1395 Security Act of 1974.

1396 (2) ~~[In the event of]~~ If there is a conflict between this section and ~~[any other]~~ another
 1397 section of this title as it relates to ~~[these accounts]~~ a separate account described in Subsection
 1398 (1), this section prevails.

1399 (3) ~~[A]~~ (a) Subject to the other provisions of this Subsection (3), a domestic life
 1400 [insurance company] insurer may:

1401 (i) establish one or more separate accounts~~[-];~~ and ~~[may]~~

1402 (ii) allocate to those separate accounts amounts, which include:

1403 (A) proceeds applied under optional modes of settlement or under dividend options, to
 1404 provide for life insurance or annuities~~[-];~~ and

1405 (B) benefits incidental to life insurance or annuities, payable in fixed ~~[or]~~, variable, or
 1406 both fixed and variable amounts ~~[or both, subject to the following:-]~~.

1407 ~~[(a) The]~~ (b) An insurer shall credit to or charge against a separate account the income,
 1408 gains, and losses, realized or unrealized, from assets allocated to ~~[a]~~ the separate account ~~[shall~~
 1409 ~~be credited to or charged against the account]~~, without regard to other income, gains, or losses
 1410 of the ~~[company]~~ insurer.

1411 ~~[(b)]~~ (c) Except as may be provided with respect to reserves for guaranteed benefits
 1412 and funds referred to in Subsection ~~[(c)]~~ (3)(d):

1413 (i) an insurer may invest or reinvest amounts allocated to ~~[any]~~ a separate account and
 1414 accumulations on ~~[such]~~ those amounts ~~[may be invested and reinvested]~~ without regard to
 1415 ~~[any]~~ the requirements or limitations prescribed by the laws of this state governing the
 1416 investments of a life ~~[insurance companies]~~ insurer; and

1417 (ii) an insurer may not take into account the investments in ~~[any such]~~ a separate
 1418 account ~~[may not be taken into account]~~ in applying the investment limitations that otherwise
 1419 apply to the investments of the ~~[company]~~ insurer.

1420 ~~[(c)]~~ (d) Except with the approval of the commissioner and under any ~~[conditions]~~
 1421 condition the commissioner prescribes as to investments and other matters ~~[as he may~~
 1422 ~~prescribe]~~, which shall recognize the guaranteed nature of the benefits provided, an insurer may
 1423 not maintain in a separate account reserves for:

1424 (i) benefits guaranteed as to dollar amount and duration~~[-];~~ and

1425 (ii) funds guaranteed as to principal amount or stated rate of interest ~~[may not be~~
 1426 ~~maintained in a separate account]~~.

1427 ~~[(d) Unless]~~ (e) (i) Except as provided in Subsection (3)(e)(ii) and unless otherwise
1428 approved by the commissioner, assets allocated to a separate account shall be valued;
1429 (A) at their market value on the date of valuation[;]; or
1430 (B) if there is no readily available market, then as provided under the terms of the
1431 contract ~~[or the]~~, rules, or other written agreement that applies to the separate account.
1432 ~~[However, unless]~~

1433 (ii) Unless otherwise approved by the commissioner, the portion of ~~[any of]~~ the assets
1434 of ~~[the]~~ a separate account that are equal to the ~~[company's]~~ insurer's reserve liability with
1435 regard to the guaranteed benefits and funds referred to in Subsection ~~[(e)]~~ (3)(d) shall be valued
1436 in accordance with the rules that otherwise apply to the company's assets.

1437 ~~[(e) Amounts allocated]~~ (f)(i) An insurer owns the amounts it allocates to a separate
1438 account in the exercise of the power granted by this section ~~[shall be owned by the company,~~
1439 ~~and the company]~~, and the insurer may not be, nor hold itself out to be, a trustee with respect to
1440 those amounts. ~~[If, and to]~~

1441 (ii) To the extent provided under the applicable [contracts, that] insurance policy, an
1442 insurer may not charge the portion of the assets of ~~[any]~~ a separate account that is equal to the
1443 reserves and other ~~[contract]~~ insurance liabilities with respect to the separate account ~~[may not~~
1444 ~~be chargeable]~~ with liabilities arising out of any other business the ~~[company]~~ insurer may
1445 conduct.

1446 ~~[(f)]~~ (g) (i) A sale, exchange, or other transfer of assets may not be made by [a
1447 ~~company]~~ an insurer between any of its separate accounts or between any other investment
1448 account and one or more of its separate accounts unless[;];

1449 (A) in case of a transfer into a separate account, the transfer is made solely to establish
1450 the account or to support the operation of the ~~[contracts]~~ insurance policies with respect to the
1451 separate account to which the transfer is made[;]; and ~~[unless]~~

1452 (B) the transfer, whether into or from a separate account, is made by:
1453 (I) a transfer of cash[;]; or ~~[by]~~
1454 (II) if the transfer of securities is approved by the commissioner, a transfer of securities
1455 having a readily determinable market value~~[, if the transfer of securities is approved by the~~
1456 ~~commissioner]~~.

1457 (ii) The commissioner may approve ~~[other transfers]~~ a transfer not described in

1458 Subsection (2)(g)(i) among [such] the accounts described in Subsection (2)(g)(i) if, in [his] the
1459 commissioner's opinion, the [transfers] transfer would not be inequitable.

1460 [(g)] (h) To the extent [a company] an insurer considers it necessary to comply with
1461 [any] an applicable federal or state [laws, the company,] law, the insurer with respect to [any] a
1462 separate account, including [any] a separate account which is a management investment
1463 company or a unit investment trust, may provide for [persons] a person having an interest in the
1464 separate account to have appropriate voting and other rights and special procedures for the
1465 conduct of the business of the separate account, including:

1466 (i) special rights and procedures relating to investment policy[;];
1467 (ii) investment advisory services[;];
1468 (iii) selection of independent public accountants[;]; and
1469 (iv) the selection of a committee, the members of which need not be otherwise
1470 affiliated with the [company] insurer, to manage the business of the separate account.

1471 [(4) Any contract providing benefits payable in variable amounts delivered or issued
1472 for delivery in this state shall contain a statement of the essential features of the procedures to
1473 be followed by the insurance company in determining the dollar amount of the variable
1474 benefits. Any contract under which the benefits vary to reflect investment experience,
1475 including a group contract and any certificate in evidence of variable benefits issued under a
1476 group contract, shall state that the dollar amount will vary according to investment experience.
1477 The contract shall contain on its first page a statement to the effect that the benefits under the
1478 contract are on a variable basis.]

1479 [(5) (a) A company may not deliver or issue for delivery within this state variable
1480 contracts unless it is licensed or organized to do a life insurance or annuity business in this
1481 state, and the commissioner is satisfied that its condition or method of operation in connection
1482 with the issuance of such contracts will not render its operation hazardous to the public or its
1483 policyholders in this state. In this connection, the commissioner shall consider among other
1484 things:]

1485 [(i) the history and financial condition of the company;]
1486 [(ii) the character, responsibility, and fitness of the officers and directors of the
1487 company; and]

1488 [(iii) (A) the law and regulation under which the company is authorized in the state of

1489 ~~domicile to issue variable contracts.]~~

1490 ~~[(B) The state of entry of an alien company shall be considered its place of domicile for~~
1491 ~~the purposes of Subsection (iii)(A).]~~

1492 ~~[(b) If the company is a subsidiary of an admitted life insurance company, or affiliated~~
1493 ~~with such a company through common management or ownership, it may be considered by the~~
1494 ~~commissioner to have met the provisions of this section if either it or the parent or the affiliated~~
1495 ~~company meets the requirements of this section.]~~

1496 ~~[(6) Notwithstanding any other provision of law, the commissioner shall have sole~~
1497 ~~authority to regulate the issuance and sale of variable contracts, and to make rules necessary~~
1498 ~~and appropriate to carry out the purposes and provisions of this chapter.]~~

1499 ~~[(7)(a) Except for Sections 31A-22-402, 31A-22-407, and 31A-22-409, in the case of~~
1500 ~~a variable annuity contract and Sections 31A-22-402, 31A-22-407, and 31A-22-408 in the case~~
1501 ~~of a variable life insurance policy, and except as otherwise provided in this chapter, all~~
1502 ~~pertinent provisions of this title apply to separate accounts and contracts relating to the separate~~
1503 ~~accounts. Any individual variable life insurance contract, delivered or issued for delivery in~~
1504 ~~this state shall contain grace, reinstatement, and nonforfeiture provisions appropriate to the~~
1505 ~~contract.]~~

1506 ~~[(b) The reserve liability for variable contracts shall be established in accordance with~~
1507 ~~actuarial procedures that recognize the variable nature of the benefits provided and any~~
1508 ~~mortality guarantees.]~~

1509 Section 9. Section **31A-15-208** is amended to read:

1510 **31A-15-208. Purchasing groups -- Filing and registration requirements.**

1511 (1) A purchasing group ~~[which]~~ that intends to do business in this state shall, prior to
1512 doing business, furnish notice to the insurance commissioner:

1513 (a) identifying the state in which the purchasing group is domiciled;

1514 (b) identifying ~~[all other states]~~ any state in which the purchasing group intends to do
1515 business;

1516 (c) specifying the lines and classifications of liability insurance ~~[which]~~ that the
1517 purchasing group intends to purchase;

1518 (d) identifying the ~~[insurance companies]~~ insurers from which the group intends to
1519 purchase its insurance and the domicile of the ~~[company]~~ insurers;

(e) specifying the method by which, and any persons through whom, insurance will be offered to group members whose risks are resident or located in this state;

(f) identifying the principal place of business of the purchasing group; and

(g) providing any other information required by the ~~[insurance]~~ commissioner to verify that the purchasing group is ~~[qualified within the definition in Subsection]~~ a "purchasing group," as defined in Section 31A-15-202~~(10)~~.

(2) A purchasing group shall notify the commissioner of ~~[any changes in any of the items]~~ a change in an item listed in Subsection (1) within ten days of the change.

(3) ~~[The]~~ (a) A purchasing group shall annually register with the commissioner and pay a filing fee. ~~[The]~~

(b) A purchasing group shall designate the commissioner as its agent solely for the purpose of receiving service of legal documents or process.

(c) The registration and fee requirements of this Subsection ~~(3)~~ do not apply to a purchasing group ~~[which]~~ that only purchases insurance that was authorized under the Product Liability Risk Retention Act of 1981, and ~~[which]~~ that:

~~[(a)]~~ (i) in any state of the United States:

~~[(i)]~~ (A) was domiciled before April 1, 1986; and

~~[(ii)]~~ (B) is domiciled after October 27, 1986;

~~[(b)-(i)]~~ (ii) (A) before October 27, 1986, purchased insurance from an ~~[insurance carrier]~~ insurer licensed in any state; and

~~[(ii)]~~ (B) since October 27, 1986, purchased its insurance from an ~~[insurance carrier]~~ insurer licensed in any state; or

~~[(c)]~~ (iii) was a purchasing group under the requirements of the Product Liability Risk Retention Act of 1981 before October 27, 1986.

(4) ~~[Each]~~ A purchasing group that is required to give notice under Subsection (1) shall also furnish information required by the commissioner to:

(a) verify that the entity qualifies as a purchasing group;

(b) determine where the purchasing group is located; and

(c) determine appropriate tax treatment of the purchasing group.

Section 10. Section **31A-20-106** is amended to read:

31A-20-106. Variable contracts.

1551 ~~[No]~~ (1) (a) An insurer may not deliver or issue for delivery within this state ~~[any~~
1552 ~~contract providing]~~ an insurance policy that provides a life or annuity [benefits in variable
1553 ~~amounts]~~ benefit in a variable amount until the insurer [has satisfied]:
1554 (i) is licensed to do a life insurance or annuity business in this state; and
1555 (ii) satisfies the commissioner that [its] the insurer's condition and methods of
1556 operation in connection with those types of [contracts] insurance policies do not render [its] the
1557 insurer's operation hazardous to the public or its policyholders in [Utah] this state.
1558 (b) Notwithstanding any other provision of law, the commissioner has sole authority
1559 to:
1560 (i) regulate the issuance and sale of a variable contract; and
1561 (ii) make rules necessary and appropriate to carry out this chapter in relation to a
1562 variable contract.
1563 (2) In determining the qualification of an insurer requesting authority to deliver [those
1564 ~~contracts in Utah]~~ an insurance policy described in Subsection (1) in this state, the
1565 commissioner shall consider:
1566 ~~[(1)]~~ (a) the history and financial condition of the insurer;
1567 ~~[(2)]~~ (b) the character, responsibility, and general fitness of the insurer's officers and
1568 directors; and
1569 ~~[(3)]~~ (c) in the case of a foreign insurer, whether the regulation provided by the state of
1570 its domicile or the jurisdiction in which its head office is located provides protection to
1571 policyholders and the public substantially equal to that provided by [the Insurance Code] this
1572 title and the rules issued under [it] this title.
1573 (3) If an insurer is a subsidiary of an admitted life insurer, or affiliated with an admitted
1574 life insurer through common management or ownership, the commissioner may consider the
1575 insurer to have met the requirements of this section if:
1576 (a) the insurer meets the requirements of this section; or
1577 (b) the parent or the affiliated insurer meets the requirements of this section.
1578 (4) This title applies to a separate account or a contract relating to the separate account,
1579 except:
1580 (a) Sections 31A-22-402, 31A-22-407, and 31A-22-409, in the case of a variable
1581 annuity policy;

1582 (b) Sections 31A-22-402, 31A-22-407, and 31A-22-408, in the case of a variable life
1583 insurance policy; and

1584 (c) as otherwise provided in this title.

1585 Section 11. Section **31A-21-201** is amended to read:

1586 **31A-21-201. Filing of forms.**

1587 (1) (a) Except as exempted under Subsections 31A-21-101(2) through (6), a form may
1588 not be used, sold, or offered for sale [~~unless~~] until the form [~~has been~~] is filed with the
1589 commissioner.

1590 (b) A form is considered filed with the commissioner when the commissioner receives:

1591 (i) the form;

1592 (ii) the applicable filing fee as prescribed under Section 31A-3-103; and

1593 (iii) the applicable transmittal forms as required by the commissioner.

1594 (2) In filing a form for use in this state the insurer is responsible for assuring that the
1595 form is in compliance with this title and rules adopted by the commissioner.

1596 (3) (a) The commissioner may prohibit the use of a form at any time upon a finding
1597 that:

1598 (i) the form [~~is~~]:

1599 (A) is inequitable;

1600 (B) is unfairly discriminatory;

1601 (C) is misleading;

1602 (D) is deceptive;

1603 (E) is obscure;

1604 (F) is unfair;

1605 (G) encourages misrepresentation; or

1606 (H) is not in the public interest;

1607 (ii) the form provides benefits or contains [~~other provisions that endanger~~] another
1608 provision that endangers the solidity of the insurer;

1609 (iii) [~~in the case of the basic policy and the application for a basic policy, the basic~~]
1610 except an application required by Section 31A-22-635, the form is an insurance policy or
1611 application for [~~the basic~~] an insurance policy that fails to conspicuously, as defined by rule,
1612 provide:

1613 (A) the exact name of the insurer;

1614 (B) the state of domicile of the insurer filing the ~~[basic]~~ insurance policy or application

1615 for the ~~[basic]~~ insurance policy; and

1616 (C) for a life insurance and annuity ~~[policies]~~ insurance policy only, the address of the

1617 administrative office of the insurer filing the ~~[basic]~~ insurance policy or application for the

1618 ~~[basic]~~ insurance policy;

1619 (iv) the form violates a statute or a rule adopted by the commissioner; or

1620 (v) the form is otherwise contrary to law.

1621 (b) Subsection (3)(a)(iii) does not apply to ~~[riders and endorsements]~~ an endorsement

1622 to ~~a basic~~ an insurance policy.

1623 (c) (i) ~~[Whenever]~~ When the commissioner prohibits the use of a form under

1624 Subsection (3)(a), the commissioner may order that, on or before a date not less than 15 days

1625 after the order, the use of the form be discontinued.

1626 (ii) Once use of a form ~~[has been]~~ is prohibited, the form may not be used ~~[unless]~~ until

1627 appropriate changes are filed with and reviewed by the commissioner.

1628 (iii) ~~[Whenever]~~ When the commissioner prohibits the use of a form under Subsection

1629 (3)(a), the commissioner may require the insurer to disclose contract deficiencies to the

1630 existing policyholders.

1631 (d) If the commissioner prohibits use of a form under this Subsection (3), the

1632 prohibition shall:

1633 (i) be in writing;

1634 (ii) constitute an order; and

1635 (iii) state the reasons for the prohibition.

1636 (4) (a) If, after a hearing, the commissioner determines that it is in the public interest,

1637 the commissioner may require by rule or order that ~~[certain forms]~~ a form be subject to the

1638 commissioner's approval ~~[prior to their]~~ before its use.

1639 (b) The rule or order described in Subsection (4)(a) shall prescribe the filing

1640 procedures for ~~[the forms]~~ a form if the procedures are different ~~[than]~~ from the procedures

1641 stated in this section.

1642 (c) The ~~[types of forms that may be addressed]~~ type of form that under Subsection

1643 (4)(a) ~~[include]~~ the commission may require approval of before use includes:

1644 (i) a form for a particular class of insurance;
1645 (ii) a form for a specific line of insurance;
1646 (iii) a specific type of form; or
1647 (iv) a form for a specific market segment.

1648 (5) (a) An insurer shall maintain a complete and accurate record of the following for
1649 the time period described in Subsection (5)(b):

1650 (i) ~~any~~ a form:
1651 (A) filed under this section for use; ~~and~~ or
1652 (B) that is in use; and
1653 (ii) ~~any~~ a document filed under this section with a form described in Subsection
1654 (5)(a)(i).

1655 (b) The insurer shall maintain a record required under Subsection (5)(a) for the balance
1656 of the current year, plus five years from:

1657 (i) the last day on which the form is used; or
1658 (ii) the last day ~~any~~ an insurance policy that is issued using the form is in effect.

1659 Section 12. Section **31A-21-301** is amended to read:

1660 **31A-21-301. Clauses required to be in a prominent position.**

1661 (1) The following portions of insurance policies shall appear conspicuously in the
1662 policy:

1663 (a) as required by Subsection 31A-21-201(3)(a)(iii):

1664 (i) the exact name of the insurer;
1665 (ii) the state of domicile of the insurer; and
1666 (iii) for life insurance and annuity policies only, the address of the administrative office
1667 of the insurer;

1668 (b) information that two or more insurers under Subsection (1)(a) undertake only
1669 several liability, as required by Section 31A-21-306;

1670 (c) if a policy is assessable, a statement of that;

1671 (d) a statement that benefits are variable, as required by ~~Subsection~~ Section
1672 31A-22-411~~(1)~~; however, the methods of calculation need not be in a prominent position;

1673 (e) the right to return a life or accident and health insurance policy under Sections
1674 31A-22-423 and 31A-22-606; and

(f) the beginning and ending dates of insurance protection.

(2) Each clause listed in Subsection (1) shall be displayed conspicuously and separately from any other clause.

Section 13. Section **31A-22-305.3** is amended to read:

31A-22-305.3. Underinsured motorist coverage.

(1) As used in this section:

(a) "Covered person" has the same meaning as defined in Section 31A-22-305.

(b) (i) "Underinsured motor vehicle" includes a motor vehicle, the operation, maintenance, or use of which is covered under a liability policy at the time of an injury-causing occurrence, but which has insufficient liability coverage to compensate fully the injured party for all special and general damages.

(ii) The term "underinsured motor vehicle" does not include:

(A) a motor vehicle that is covered under the liability coverage of the same policy that also contains the underinsured motorist coverage;

(B) an uninsured motor vehicle as defined in Subsection 31A-22-305(2); or

(C) a motor vehicle owned or leased by:

(I) ~~the~~ a named insured;

(II) ~~the~~ a named insured's spouse; or

(III) ~~any~~ a dependent of ~~the~~ a named insured.

(2) (a) (i) Underinsured motorist coverage under Subsection 31A-22-302(1)(c) provides coverage for a covered ~~persons~~ person who ~~are~~ is legally entitled to recover damages from ~~owners or operators~~ an owner or operator of an underinsured motor ~~vehicles~~ vehicle because of bodily injury, sickness, disease, or death.

(ii) A covered person occupying or using a motor vehicle owned, leased, or furnished to the covered person, the covered person's spouse, or covered person's resident relative may recover underinsured benefits only if the motor vehicle is:

(A) described in the policy under which a claim is made; or

(B) a newly acquired or replacement motor vehicle covered under the terms of the policy.

(b) For new policies written on or after January 1, 2001, the limits of underinsured motorist coverage shall be equal to the lesser of the limits of the insured's motor vehicle

1706 liability coverage or the maximum underinsured motorist coverage limits available by the
1707 insurer under the insured's motor vehicle policy, unless the insured purchases coverage in a
1708 lesser amount by signing an acknowledgment form that:

- 1709 (i) is filed with the department;
- 1710 (ii) is provided by the insurer;
- 1711 (iii) waives the higher coverage;
- 1712 (iv) reasonably explains the purpose of underinsured motorist coverage; and
- 1713 (v) discloses the additional premiums required to purchase underinsured motorist
1714 coverage with limits equal to the lesser of the limits of the insured's motor vehicle liability
1715 coverage or the maximum underinsured motorist coverage limits available by the insurer under
1716 the insured's motor vehicle policy.

1717 (c) A self-insured, including a governmental entity, may elect to provide underinsured
1718 motorist coverage in an amount that is less than its maximum self-insured retention under
1719 Subsections (2)(b) and (2)(g) by issuing a declaratory memorandum or policy statement from
1720 the chief financial officer or chief risk officer that declares the:

- 1721 (i) self-insured entity's coverage level; and
- 1722 (ii) process for filing an underinsured motorist claim.
- 1723 (d) Underinsured motorist coverage may not be sold with limits that are less than:
1724 (i) \$10,000 for one person in any one accident; and
1725 (ii) at least \$20,000 for two or more persons in any one accident.

1726 (e) ~~[The]~~ An acknowledgment under Subsection (2)(b) continues for that issuer of the
1727 underinsured motorist coverage until the insured, in writing, requests different underinsured
1728 motorist coverage from the insurer.

1729 (f) (i) The named insured's underinsured motorist coverage, as described in Subsection
1730 (2)(a), is secondary to the liability coverage of an owner or operator of an underinsured motor
1731 vehicle, as described in Subsection (1).

1732 (ii) Underinsured motorist coverage may not be set off against the liability coverage of
1733 the owner or operator of an underinsured motor vehicle, but shall be added to, combined with,
1734 or stacked upon the liability coverage of the owner or operator of the underinsured motor
1735 vehicle to determine the limit of coverage available to the injured person.

1736 (g) (i) A named insured may reject underinsured motorist coverage by an express

1737 writing to the insurer that provides liability coverage under Subsection 31A-22-302(1)(a).

1738 (ii) ~~[This]~~ A written rejection under this Subsection (2)(g) shall be on a form provided
1739 by the insurer that includes a reasonable explanation of the purpose of underinsured motorist
1740 coverage and when it would be applicable.

1741 (iii) ~~[This]~~ A written rejection under this Subsection (2)(g) continues for that issuer of
1742 the liability coverage until the insured in writing requests underinsured motorist coverage from
1743 that liability insurer.

1744 ~~[(h) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for~~
1745 ~~policies existing on that date, the insurer shall disclose in the same medium as the premium~~
1746 ~~renewal notice, an explanation of:]~~

1747 ~~[(A) the purpose of underinsured motorist coverage; and]~~

1748 ~~[(B) the costs associated with increasing the coverage in amounts up to and including~~
1749 ~~the maximum amount available by the insurer under the insured's motor vehicle policy:]~~

1750 ~~[(ii) The disclosure required by this Subsection (2)(h) shall be sent to all insureds that~~
1751 ~~carry underinsured motorist coverage limits in an amount less than the insured's motor vehicle~~
1752 ~~liability policy limits or the maximum underinsured motorist coverage limits available by the~~
1753 ~~insurer under the insured's motor vehicle policy:]~~

1754 (3) (a) (i) Except as provided in this Subsection (3), a covered person injured in a
1755 motor vehicle described in a policy that includes underinsured motorist benefits may not elect
1756 to collect underinsured motorist coverage benefits from ~~[any other]~~ another motor vehicle
1757 insurance policy.

1758 (ii) The limit of liability for underinsured motorist coverage for two or more motor
1759 vehicles may not be added together, combined, or stacked to determine the limit of insurance
1760 coverage available to an injured person for any one accident.

1761 (iii) Subsection (3)(a)(ii) applies to all persons except a covered person described
1762 under Subsections (3)(b)(i) and (ii).

1763 (b) (i) Except as provided in Subsection (3)(b)(ii), a covered person injured while
1764 occupying, using, or maintaining a motor vehicle that is not owned, leased, or furnished to the
1765 covered person, the covered person's spouse, or the covered person's resident parent or resident
1766 sibling, may also recover benefits under any one other policy under which ~~[they are]~~ the
1767 covered person is also a covered person.

1768 (ii) (A) A covered person may recover benefits from no more than two additional
1769 policies, one additional policy from each parent's household if the covered person is:
1770 (I) a dependent minor of parents who reside in separate households; and
1771 (II) injured while occupying or using a motor vehicle that is not owned, leased, or
1772 furnished to the covered person, the covered person's resident parent, or the covered person's
1773 resident sibling.

1774 (B) Each parent's policy under this Subsection (3)(b)(ii) is liable only for the
1775 percentage of the damages that the limit of liability of each parent's policy of underinsured
1776 motorist coverage bears to the total of both parents' underinsured coverage applicable to the
1777 accident.

1778 (iii) A covered person's recovery under any available policies may not exceed the full
1779 amount of damages.

1780 (iv) Underinsured coverage on a motor vehicle occupied at the time of an accident
1781 ~~[shall be]~~ is primary coverage, and the coverage elected by a person described under
1782 Subsections 31A-22-305(1)(a) and (b) ~~[shall be]~~ is secondary coverage.

1783 (v) The primary and the secondary coverage may not be set off against the other.

1784 (vi) A covered person as described under Subsection (3)(b)(i) is entitled to the highest
1785 limits of underinsured motorist coverage under only one additional policy per household
1786 applicable to that covered person as a named insured, spouse, or relative.

1787 (vii) A covered injured person is not barred against making subsequent elections if
1788 recovery is unavailable under previous elections.

1789 (viii) (A) As used in this section, "interpolicy stacking" means recovering benefits for a
1790 single incident of loss under more than one insurance policy.

1791 (B) Except to the extent permitted by this Subsection (3), interpolicy stacking is
1792 prohibited for underinsured motorist coverage.

1793 (c) Underinsured motorist coverage:

1794 (i) is secondary to the benefits provided by Title 34A, Chapter 2, Workers'
1795 Compensation Act;

1796 (ii) may not be subrogated by ~~[the]~~ a workers' compensation insurance carrier;

1797 (iii) may not be reduced by ~~[any]~~ benefits provided by workers' compensation
1798 insurance;

1799 (iv) may be reduced by health insurance subrogation only after the covered person [~~has~~
1800 ~~been~~] is made whole;

1801 (v) may not be collected for bodily injury or death sustained by a person:

1802 (A) while committing a violation of Section 41-1a-1314;

1803 (B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated
1804 in violation of Section 41-1a-1314; or

1805 (C) while committing a felony; and

1806 (vi) notwithstanding Subsection (3)(c)(v), may be recovered:

1807 (A) for a person under 18 years of age who is injured within the scope of Subsection
1808 (3)(c)(v), but is limited to medical and funeral expenses; or

1809 (B) by a law enforcement officer as defined in Section 53-13-103, who is injured
1810 within the course and scope of the law enforcement officer's duties.

1811 (4) The inception of the loss under Subsection 31A-21-313(1) for underinsured
1812 motorist claims occurs upon the date of the last liability policy payment.

1813 (5) (a) Within five business days after notification that all liability insurers have
1814 tendered their liability policy limits, the underinsured carrier shall either:

1815 (i) waive any subrogation claim the underinsured carrier may have against the person
1816 liable for the injuries caused in the accident; or

1817 (ii) pay the insured an amount equal to the policy limits tendered by the liability carrier.

1818 (b) If neither option is exercised under Subsection (5)(a), the subrogation claim is
1819 considered to be waived by the underinsured carrier.

1820 (6) Except as otherwise provided in this section, a covered person may seek, subject to
1821 the terms and conditions of the policy, additional coverage under any policy:

1822 (a) that provides coverage for damages resulting from motor vehicle accidents; and
1823 (b) that is not required to conform to Section 31A-22-302.

1824 (7) (a) When a claim is brought by a named insured or a person described in
1825 Subsection 31A-22-305(1) and is asserted against the covered person's underinsured motorist
1826 carrier, the claimant may elect to resolve the claim:

1827 (i) by submitting the claim to binding arbitration; or
1828 (ii) through litigation.

1829 (b) Unless otherwise provided in the policy under which underinsured benefits are

1830 claimed, the election provided in Subsection (7)(a) is available to the claimant only.

1831 (c) Once ~~[the]~~ a claimant ~~[has elected]~~ elects to commence litigation under Subsection
1832 (7)(a)(ii), the claimant may not elect to resolve the claim through binding arbitration under this
1833 section without the written consent of the underinsured motorist coverage carrier.

1834 (d) (i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to
1835 binding arbitration under Subsection (7)(a)(i) shall be resolved by a single arbitrator.

1836 (ii) All parties shall agree on the single arbitrator selected under Subsection (7)(d)(i).

1837 (iii) If the parties are unable to agree on a single arbitrator as required under Subsection
1838 (7)(d)(ii), the parties shall select a panel of three arbitrators.

1839 (e) If the parties select a panel of three arbitrators under Subsection (7)(d)(iii):

1840 (i) each side shall select one arbitrator; and

1841 (ii) the arbitrators appointed under Subsection (7)(e)(i) shall select one additional
1842 arbitrator to be included in the panel.

1843 (f) Unless otherwise agreed to in writing:

1844 (i) each party shall pay an equal share of the fees and costs of the arbitrator selected
1845 under Subsection (7)(d)(i); or

1846 (ii) if an arbitration panel is selected under Subsection (7)(d)(iii):

1847 (A) each party shall pay the fees and costs of the arbitrator selected by that party; and

1848 (B) each party shall pay an equal share of the fees and costs of the arbitrator selected
1849 under Subsection (7)(e)(ii).

1850 (g) Except as otherwise provided in this section or unless otherwise agreed to in
1851 writing by the parties, an arbitration proceeding conducted under this section ~~[shall be]~~ is
1852 governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

1853 (h) ~~[The]~~ An arbitration shall be conducted in accordance with Rules 26 through 37,
1854 54, and 68 of the Utah Rules of Civil Procedure.

1855 (i) ~~[All issues]~~ An issue of discovery shall be resolved by the arbitrator or the
1856 arbitration panel.

1857 (j) A written decision by a single arbitrator or by a majority of the arbitration panel
1858 ~~[shall constitute]~~ constitutes a final decision.

1859 (k) (i) The amount of an arbitration award may not exceed the underinsured motorist
1860 policy limits of all applicable underinsured motorist policies, including applicable underinsured

1861 motorist umbrella policies.

1862 (ii) If the initial arbitration award exceeds the underinsured motorist policy limits of all
1863 applicable underinsured motorist policies, the arbitration award shall be reduced to an amount
1864 equal to the combined underinsured motorist policy limits of all applicable underinsured
1865 motorist policies.

1866 (l) The arbitrator or arbitration panel may not decide ~~[the issues]~~ an issue of coverage
1867 or extra-contractual damages, including:

1868 (i) whether the claimant is a covered person;

1869 (ii) whether the policy extends coverage to the loss; or

1870 (iii) ~~[any allegations or claims]~~ an allegation or claim asserting consequential damages
1871 or bad faith liability.

1872 (m) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or
1873 class-representative basis.

1874 (n) If the arbitrator or arbitration panel finds that the ~~[action was]~~ arbitration is not
1875 brought, pursued, or defended in good faith, the arbitrator or arbitration panel may award
1876 reasonable attorney fees and costs against the party that failed to bring, pursue, or defend the
1877 ~~[claim]~~ arbitration in good faith.

1878 (o) An arbitration award issued under this section shall be the final resolution of all
1879 claims not excluded by Subsection (7)(l) between the parties unless:

1880 (i) the award ~~[was]~~ is procured by corruption, fraud, or other undue means; or

1881 (ii) either party, within 20 days after service of the arbitration award:

1882 (A) files a complaint requesting a trial de novo in the district court; and

1883 (B) serves the nonmoving party with a copy of the complaint requesting a trial de novo
1884 under Subsection (7)(o)(ii)(A).

1885 (p) (i) Upon filing a complaint for a trial de novo under Subsection (7)(o), ~~[the]~~ a claim
1886 shall proceed through litigation pursuant to the Utah Rules of Civil Procedure and Utah Rules
1887 of Evidence in the district court.

1888 (ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may
1889 request a jury trial with a complaint requesting a trial de novo under Subsection (7)(o)(ii)(A).

1890 (q) (i) If the claimant, as the moving party in a trial de novo requested under
1891 Subsection (7)(o), does not obtain a verdict that is at least \$5,000 and is at least 20% greater

than the arbitration award, the claimant is responsible for all of the nonmoving party's costs.

(ii) If the underinsured motorist carrier, as the moving party in a trial de novo requested under Subsection (7)(o), does not obtain a verdict that is at least 20% less than the arbitration award, the underinsured motorist carrier is responsible for all of the nonmoving party's costs.

(iii) Except as provided in Subsection (7)(q)(iv), the costs under this Subsection (7)(q) shall include:

(A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

(B) the costs of expert witnesses and depositions.

(iv) An award of costs under this Subsection (7)(q) may not exceed \$2,500.

(r) For purposes of determining whether a party's verdict is greater or less than the arbitration award under Subsection (7)(q), a court may not consider any recovery or other relief granted on a claim for damages if the claim for damages:

(i) was not fully disclosed in writing prior to the arbitration proceeding; or

(ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil Procedure.

(s) If a district court determines, upon a motion of the nonmoving party, that ~~the~~ a moving party's use of the trial de novo process ~~was~~ is filed in bad faith in accordance with Section 78B-5-825, the district court may award reasonable attorney fees to the nonmoving party.

(t) Nothing in this section is intended to limit ~~any~~ a claim under ~~any other~~ another portion of an applicable insurance policy.

(u) If there are multiple underinsured motorist policies, as set forth in Subsection (3), the claimant may elect to arbitrate in one hearing the claims against all the underinsured motorist carriers.

Section 14. Section **31A-22-411** is amended to read:

31A-22-411. Contracts providing variable benefits.

(1) ~~[(a) Any contract which]~~ An insurance policy that provides for payment of ~~[benefits in variable amounts]~~ a benefit in a variable amount shall contain a statement of the essential features of the procedure to be followed by the insurer in determining the dollar amount of the variable benefits. ~~[The contract shall contain:]~~

(2) A variable insurance policy shall contain:

(~~(i)~~) (a) an appropriate nonforfeiture [~~benefits~~] benefit in lieu of those required by either Section 31A-22-408 or 31A-22-409;

(~~(ii)~~) (b) an appropriate reinstatement [~~provisions~~] provision in lieu of those required by Section 31A-22-407; and

(~~(iii)~~) (c) a grace period [~~provisions~~] provision appropriate to that type of [~~contract~~] insurance policy in lieu of those required by Section 31A-22-402.

~~(b) This~~ (3) An individual [~~contract and any~~] insurance policy and a certificate issued under a group [~~contract shall state that~~] insurance policy shall conspicuously state on its first page that:

(a) the dollar amount may decrease or increase [~~and shall conspicuously display on its first page a statement that the benefits under the contract are~~] according to investment experience; and

(b) a benefit under the insurance policy is payable on a variable basis [~~with a statement specifying where the details of the variable provisions are found in the contract~~].

~~(c) Life~~ (4) A life insurance [~~and~~] or annuity [~~policies~~] policy with a variable [~~benefits~~] benefit issued under a separate account shall, on either the application or the insurance policy, state that the insurer's liabilities with respect to a variable [~~benefits~~] benefit under the insurance policy are subject to satisfaction only out of the insurer's variable account assets.

~~(2) Any contract subject to Subsection (1)]~~

(5)(a) A variable insurance policy shall state whether it may be amended as to:

(i) investment policy[:];

(ii) voting rights[:]; and

(iii) conduct of the business and affairs of [~~any segregated~~] a separate account.

(b) Subject to any preemptive provision of federal law, [~~this type of~~] an amendment of the type described in this Subsection (5) is subject to:

(i) filing under Section 31A-21-201; and

(ii) approval by a majority of the policyholders in the [~~segregated~~] separate account.

Section 15. Section **31A-22-429** is enacted to read:

31A-22-429. Insurance premium finance agreement.

(1) As used in this section:

1954 (a) "Insurance policy" means:

1955 (i) an individual or group life insurance or annuity policy; or

1956 (ii) a group life insurance or group annuity certificate.

1957 (b) "Insurance premium finance agreement" means an agreement for financing an

1958 insurance policy premium payment.

1959 (2) A person who provides premium financing for an insurance policy may not receive

1960 proceeds, fees, or other consideration from the insurance policy or the insurance policyholder

1961 that is in addition to the amounts required to pay the principal, interest, and reasonable

1962 expenses incurred by a lender or borrower in connection with a premium finance agreement.

1963 Section 16. Section **31A-22-625** is amended to read:

1964 **31A-22-625. Catastrophic coverage of mental health conditions.**

1965 (1) As used in this section:

1966 (a) (i) "Catastrophic mental health coverage" means coverage in a health benefit plan

1967 [~~or health maintenance organization contract~~] that does not impose a lifetime limit, annual

1968 payment limit, episodic limit, inpatient or outpatient service limit, or maximum out-of-pocket

1969 limit that places a greater financial burden on an insured for the evaluation and treatment of a

1970 mental health condition than for the evaluation and treatment of a physical health condition.

1971 (ii) "Catastrophic mental health coverage" may include a restriction on cost sharing

1972 factors, such as deductibles, copayments, or coinsurance, [~~prior to~~] before reaching [~~any~~] a

1973 maximum out-of-pocket limit.

1974 (iii) "Catastrophic mental health coverage" may include one maximum out-of-pocket

1975 limit for physical health conditions and another maximum out-of-pocket limit for mental health

1976 conditions, [~~provided that,~~] except that if separate out-of-pocket limits are established, the

1977 out-of-pocket limit for mental health conditions may not exceed the out-of-pocket limit for

1978 physical health conditions.

1979 (b) (i) "50/50 mental health coverage" means coverage in a health benefit plan [~~or~~

1980 ~~health maintenance organization contract~~] that pays for at least 50% of covered services for the

1981 diagnosis and treatment of mental health conditions.

1982 (ii) "50/50 mental health coverage" may include a restriction on:

1983 (A) episodic limits[;];

1984 (B) inpatient or outpatient service limits[;]; or

1985 (C) maximum out-of-pocket limits.

1986 (c) "Large employer," ~~[is as defined in Section 31A-1-301]~~ for purposes of this section,
1987 has the same meaning as provided in the federal regulations adopted pursuant to the Health
1988 Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, 110 Stat. 1996.

1989 (d) (i) "Mental health condition" means ~~[any]~~ a condition or disorder involving mental
1990 illness that falls under ~~[any of the]~~ a diagnostic ~~[categories]~~ category listed in the Diagnostic
1991 and Statistical Manual, as periodically revised.

1992 (ii) "Mental health condition" does not include the following when diagnosed as the
1993 primary or substantial reason or need for treatment:

1994 (A) a marital or family problem;

1995 (B) a social, occupational, religious, or other social maladjustment;

1996 (C) a conduct disorder;

1997 (D) a chronic adjustment disorder;

1998 (E) a psychosexual disorder;

1999 (F) a chronic organic brain syndrome;

2000 (G) a personality disorder;

2001 (H) a specific developmental disorder or learning disability; or

2002 (I) mental retardation.

2003 ~~[(c) "Small employer" is as defined in Section 31A-1-301.]~~

2004 (2) (a) At the time of purchase and renewal, an insurer shall offer to ~~[each]~~ a small
2005 employer that it insures or seeks to insure a choice between catastrophic mental health
2006 coverage and 50/50 mental health coverage.

2007 (b) In addition to complying with Subsection (2)(a), an insurer may offer to provide:

2008 (i) catastrophic mental health coverage, 50/50 mental health coverage, or both at levels
2009 that exceed the minimum requirements of this section; or

2010 (ii) coverage that excludes benefits for mental health conditions.

2011 (c) A small employer may, at its option, choose either catastrophic mental health
2012 coverage, 50/50 mental health coverage, or coverage offered under Subsection (2)(b),
2013 regardless of the employer's previous coverage for mental health conditions.

2014 (d) ~~[An insurer is exempt from the 30% index rating restriction in Subsection~~
2015 ~~31A-30-106(1)(b) and, for the first year only that catastrophic mental health coverage is~~

2016 ~~chosen, the 15% annual adjustment restriction in Subsection 31A-30-106(1)(c)(ii), for any]~~ For
2017 a small employer with 20 or less enrolled employees who chooses coverage that meets or
2018 exceeds catastrophic mental health coverage[:] an insurer is exempt from:

2019 ~~[(3)(a) At the time of purchase and renewal of a health benefit plan, an insurer shall~~
2020 ~~offer catastrophic mental health coverage to each large employer that it insures or seeks to~~
2021 ~~insure.]~~

2022 ~~[(b) In addition to Subsection (3)(a), an insurer may offer to provide catastrophic~~
2023 ~~mental health coverage at levels that exceed the minimum requirements of this section.]~~

2024 ~~[(c) A large employer may, at its option, choose either catastrophic mental health~~
2025 ~~coverage, coverage that excludes benefits for mental health conditions, or coverage offered~~
2026 ~~under Subsection (3)(b).]~~

2027 (i) the 30% index rating restriction in Subsection 31A-30-106(1)(b); and

2028 (ii) for the first year only that catastrophic mental health coverage is chosen, the 15%
2029 annual adjustment restriction in Subsection 31A-30-106(1)(c)(ii).

2030 (3) An insurer shall offer a large employer mental health and substance use disorder
2031 benefit in compliance with Section 2705 of the Public Health Service Act, 42 U.S.C. Sec.
2032 300gg-5, and federal regulations adopted pursuant to that act.

2033 (4) (a) An insurer may provide catastrophic mental health coverage to a small employer
2034 through a managed care organization or system in a manner consistent with [the provisions in]
2035 Chapter 8, Health Maintenance Organizations and Limited Health Plans, regardless of whether
2036 the insurance policy [or contract] uses a managed care organization or system for the treatment
2037 of physical health conditions.

2038 (b) (i) Notwithstanding any other provision of this title, an insurer may:

2039 (A) establish a closed panel of providers for catastrophic mental health coverage; and

2040 (B) refuse to provide ~~[any]~~ a benefit to be paid for services rendered by a nonpanel
2041 provider unless:

2042 (I) the insured is referred to a nonpanel provider with the prior authorization of the
2043 insurer; and

2044 (II) the nonpanel provider agrees to follow the insurer's protocols and treatment
2045 guidelines.

2046 (ii) If an insured receives services from a nonpanel provider in the manner permitted by

Subsection (4)(b)(i)(B), the insurer shall reimburse the insured for not less than 75% of the average amount paid by the insurer for comparable services of panel providers under a noncapitated arrangement who are members of the same class of health care providers.

(iii) ~~[Nothing in this]~~ This Subsection (4)(b) may not be construed as requiring an insurer to authorize a referral to a nonpanel provider.

(c) To be eligible for catastrophic mental health coverage, a diagnosis or treatment of a mental health condition must be rendered:

(i) by a mental health therapist as defined in Section 58-60-102; or

(ii) in a health care facility;

(A) licensed or otherwise authorized to provide mental health services pursuant to;

(I) Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act~~;~~; or

(II) Title 62A, Chapter 2, Licensure of Programs and Facilities~~;~~; and

(B) that provides a program for the treatment of a mental health condition pursuant to a written plan.

(5) The commissioner may prohibit ~~[a]~~ an insurance policy ~~[or contract]~~ that provides mental health coverage in a manner that is inconsistent with this section.

(6) The commissioner shall:

(a) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to ensure compliance with this section; and

(b) provide general figures on the percentage of ~~[contracts and]~~ insurance policies that include:

(i) no mental health coverage~~;~~;

(ii) 50/50 mental health coverage~~;~~;

(iii) catastrophic mental health coverage~~;~~; and

(iv) coverage that exceeds the minimum requirements of this section.

~~[(7) The Health and Human Services Interim Committee shall review:]~~

~~[(a) the impact of this section on insurers, employers, providers, and consumers of mental health services before January 1, 2004; and]~~

~~[(b) make a recommendation as to whether the provisions of this section should be modified and whether the cost-sharing requirements for mental health conditions should be the same as for physical health conditions.]~~

~~[(8) (a) An insurer shall offer catastrophic mental health coverage as part of a health maintenance organization contract that is governed by Chapter 8, Health Maintenance Organizations and Limited Health Plans, that is in effect on or after January 1, 2001.]~~

~~[(b) An insurer shall offer catastrophic mental health coverage as a part of a health benefit plan that is not governed by Chapter 8, Health Maintenance Organizations and Limited Health Plans, that is in effect on or after July 1, 2001.]~~

~~[(c) This section does not apply to the purchase or renewal of an individual insurance policy or contract.]~~

~~[(d) Notwithstanding Subsection (8)(c), nothing in this]~~

(7) This section may not be construed as discouraging or otherwise preventing [insurers] an insurer from [continuing to provide] providing mental health coverage in connection with an individual insurance policy [or contract].

~~[(9)] (8) This section shall be repealed in accordance with Section 63I-1-231.~~

Section 17. Section **31A-22-701** is amended to read:

31A-22-701. Groups eligible for group or blanket insurance.

(1) As used in this section, "association group" means a lawfully formed association of individuals or business entities that:

(a) purchases insurance on a group basis on behalf of members; and

(b) is formed and maintained in good faith for purposes other than obtaining insurance.

~~[(1)] (2) A group or blanket accident and health insurance policy may be issued to:~~

(a) [any] a group[:(1)] to which a group life insurance policy may be issued under Sections 31A-22-502 [through], 31A-22-503, 31A-22-504, 31A-22-506, 31A-22-507, and 31A-22-509; and

(ii) that is formed for a reason other than the purchase of insurance; [or]

(b) an association group that:

(i) has been actively in existence for at least five years;

(ii) has a constitution and bylaws;

(iii) is formed and maintained in good faith for purposes other than obtaining insurance;

(iv) does not condition membership in the association group on any health status-related factor relating to an individual, including an employee of an employer or a

2109 dependent of an employee:

2110 (v) makes accident and health insurance coverage offered through the association
2111 group available to all members regardless of any health status-related factor relating to the
2112 members or individuals eligible for coverage through a member; and

2113 (vi) does not make accident and health insurance coverage offered through the
2114 association group available other than in connection with a member of the association group;

2115 ~~[(b)-any]~~ (c) a group specifically authorized by the commissioner under Section
2116 31A-22-509, upon a finding that:

2117 (i) authorization is not contrary to the public interest;

2118 (ii) the proposed group is actuarially sound;

2119 (iii) formation of the proposed group may result in economies of scale in acquisition,
2120 administrative, marketing, and brokerage costs;

2121 (iv) the ~~[health]~~ insurance policy, insurance certificate, or other indicia of coverage that
2122 will be offered to the proposed group is substantially equivalent to insurance policies that are
2123 otherwise available to similar groups; ~~[and]~~

2124 ~~[(v)- the proposed group is formed for a reason other than the purchase of insurance.]~~

2125 (v) the group would not present hazards of adverse selection; and

2126 (vi) the premiums for the insurance policy and any contributions by or on behalf of the
2127 insured persons are reasonable in relation to the benefits provided.

2128 ~~[(2)]~~ (3) A blanket insurance policy may also be issued to:

2129 (a) ~~[any]~~ a common carrier or ~~[any]~~ an operator, owner, or lessee of a means of
2130 transportation, as policyholder, covering persons who may become passengers as defined by
2131 reference to their travel status;

2132 (b) an employer, as policyholder, covering any group of employees, dependents, or
2133 guests, as defined by reference to specified hazards incident to any activities of the
2134 policyholder;

2135 (c) an institution of learning, including a school district, school jurisdictional units, or
2136 the head, principal, or governing board of any of those units, as policyholder, covering
2137 students, teachers, or employees;

2138 (d) ~~[any]~~ a religious, charitable, recreational, educational, or civic organization, or
2139 branch of those organizations, as policyholder, covering any group of members or participants

2140 as defined by reference to specified hazards incident to the activities sponsored or supervised
2141 by the policyholder;

2142 (e) a sports team, camp, or sponsor of the team or camp, as policyholder, covering
2143 members, campers, employees, officials, or supervisors;

2144 (f) ~~[any]~~ a volunteer fire department, first aid, civil defense, or other similar volunteer
2145 organization, as policyholder, covering any group of members or participants as defined by
2146 reference to specified hazards incident to activities sponsored, supervised, or participated in by
2147 the policyholder;

2148 (g) a newspaper or other publisher, as policyholder, covering its carriers;

2149 (h) an association, including a labor union, which has a constitution and bylaws and
2150 which has been organized in good faith for purposes other than that of obtaining insurance, as
2151 policyholder, covering any group of members or participants as defined by reference to
2152 specified hazards incident to the activities or operations sponsored or supervised by the
2153 policyholder;

2154 (i) a health insurance purchasing association, as defined in Section 31A-34-103,
2155 organized and controlled solely by participating employers; and

2156 (j) any other class of risks ~~[which]~~ that, in the judgment of the commissioner, may be
2157 properly eligible for blanket accident and health insurance.

2158 ~~[(3)]~~ (4) The judgment of the commissioner may be exercised on the basis of:

2159 (a) individual risks;

2160 (b) a class of risks; or

2161 (c) both Subsections ~~[(3)]~~ (4)(a) and (b).

2162 Section 18. Section **31A-22-722** is amended to read:

2163 **31A-22-722. Utah mini-COBRA benefits for employer group coverage.**

2164 (1) An insured ~~[has the right to]~~ may extend the employee's coverage under the current
2165 employer's group policy for a period of 12 months, except as provided in Subsection (2). The
2166 right to extend coverage includes:

2167 (a) voluntary termination;

2168 (b) involuntary termination;

2169 (c) retirement;

2170 (d) death;

2171 (e) divorce or legal separation;
 2172 (f) loss of dependent status;
 2173 (g) sabbatical;
 2174 (h) ~~[any]~~ a disability;
 2175 (i) leave of absence; or
 2176 (j) reduction of hours.
 2177 (2) (a) Notwithstanding ~~[the provisions of]~~ Subsection (1), an employee ~~[does not have~~
 2178 ~~the right to]~~ may not extend coverage under the current employer's group insurance policy if
 2179 the employee:
 2180 (i) ~~[failed]~~ fails to pay ~~[any required individual contribution]~~ premiums or
 2181 contributions in accordance with the terms of the insurance policy;
 2182 (ii) acquires other group coverage covering all preexisting conditions including
 2183 maternity, if the coverage exists;
 2184 (iii) ~~[performed]~~ performs an act or practice that constitutes fraud in connection with
 2185 the coverage;
 2186 (iv) ~~[made]~~ makes an intentional misrepresentation of material fact under the terms of
 2187 the coverage;
 2188 (v) ~~[was]~~ is terminated from employment for gross misconduct;
 2189 (vi) ~~[has not been]~~ is not continuously covered under the current employer's group
 2190 policy for a period of three months immediately ~~[prior to]~~ before the termination of the
 2191 insurance policy due to ~~[the events]~~ an event set forth in Subsection (1);
 2192 (vii) is eligible for ~~[any]~~ an extension of coverage required by federal law; ~~[or]~~
 2193 (viii) establishes residence outside of this state;
 2194 (ix) moves out of the insurer's service area;
 2195 (x) is eligible for similar coverage under another group insurance policy;
 2196 (xi) has the employee's coverage terminated because the employer's coverage is
 2197 terminated, except as provided in Subsection (8); or
 2198 ~~[(viii) elected]~~ (xii) elects alternative coverage under Section 31A-22-724.
 2199 (b) The right to extend coverage under Subsection (1) applies to ~~[any]~~ spouse or
 2200 dependent ~~[coverages]~~ coverage, including a surviving spouse or dependents whose coverage
 2201 under the insurance policy terminates by reason of the death of the employee or member.

2202 (3) (a) The employer shall [~~provide written notification~~] notify the following in writing
2203 of the right to extend group coverage and the payment amounts required for extension of
2204 coverage, including the manner, place, and time in which the payments shall be made [~~to~~]:

2205 (i) [~~the~~] a terminated insured;

2206 (ii) [~~the~~] an ex-spouse of an insured; or

2207 (iii) if Subsection (2)(b) applies:

2208 (A) [~~to~~] a surviving spouse; and

2209 (B) the guardian of surviving dependents, if different from a surviving spouse.

2210 (b) The notification required in Subsection (3)(a) shall be sent first class mail within 30
2211 days after the termination date of the group coverage to:

2212 (i) the terminated insured's home address as shown on the records of the employer;

2213 (ii) the address of the surviving spouse, if different from the insured's address and if
2214 shown on the records of the employer;

2215 (iii) the guardian of any dependents address, if different from the insured's address, and
2216 if shown on the records of the employer; and

2217 (iv) the address of the ex-spouse, if shown on the records of the employer.

2218 (4) The insurer shall provide the employee, spouse, or any eligible dependent the
2219 opportunity to extend the group coverage at the payment amount stated in Subsection (5) if:

2220 (a) the employer policyholder does not provide the terminated insured the written
2221 notification required by Subsection (3)(a); and

2222 (b) the employee or other individual eligible for extension contacts the insurer within
2223 60 days of coverage termination.

2224 (5) [~~The~~] A premium amount for extended group coverage may not exceed 102% of
2225 the group rate in effect for a group member, including an employer's contribution, if any, for a
2226 group insurance policy.

2227 (6) Except as provided in this Subsection (6), [~~the~~] coverage extends without
2228 interruption for 12 months and may not terminate if the terminated insured or, with respect to a
2229 minor, the parent or guardian of the terminated insured:

2230 (a) elects to extend group coverage within 60 days of losing group coverage; and

2231 (b) tenders the amount required to the employer or insurer.

2232 (7) The insured's coverage may be terminated [~~prior to~~] before 12 months if the

2233 terminated insured:

2234 (a) establishes residence outside of this state;

2235 (b) moves out of the insurer's service area;

2236 (c) fails to pay premiums or contributions in accordance with the terms of the insurance

2237 policy, including any timeliness requirements;

2238 (d) performs an act or practice that constitutes fraud in connection with the coverage;

2239 (e) makes an intentional misrepresentation of material fact under the terms of the

2240 coverage;

2241 (f) becomes eligible for similar coverage under another group insurance policy; or

2242 (g) has the coverage terminated because the employer's coverage is terminated, except

2243 as provided in Subsection (8).

2244 (8) If the current employer coverage is terminated and the employer replaces coverage

2245 with similar coverage under another group insurance policy, without interruption, the

2246 terminated insured, spouse, or the surviving spouse and guardian of dependents if Subsection

2247 (2)(b) applies, ~~[have the right to]~~ may obtain extension of coverage under the replacement

2248 group insurance policy:

2249 (a) for the balance of the period the terminated insured would have extended coverage

2250 under the replaced group insurance policy; and

2251 (b) if the terminated insured is otherwise eligible for extension of coverage.

2252 (9) (a) Within 30 days of the insured's exhaustion of extension of coverage, the

2253 employer shall provide the terminated insured and the ex-spouse, or, in the case of the death of

2254 the insured, the surviving spouse, or guardian of any dependents, written notification of the

2255 right to an individual conversion policy under Section 31A-22-723.

2256 (b) The notification required by Subsection (9)(a):

2257 (i) shall be sent first class mail to:

2258 (A) the insured's last-known address as shown on the records of the employer;

2259 (B) the address of the surviving spouse, if different from the insured's address, and if

2260 shown on the records of the employer;

2261 (C) the guardian of any dependents last known address as shown on the records of the

2262 employer, if different from the address of the surviving spouse; and

2263 (D) the address of the ex-spouse as shown on the records of the employer, if

2264 applicable; and

2265 (ii) shall contain the name, address, and telephone number of the insurer that will
2266 provide the conversion coverage.

2267 Section 19. Section **31A-22-725** is enacted to read:

2268 **31A-22-725. Special enrollment periods relating to Medicaid and Children's**
2269 **Health Insurance Program.**

2270 (1) A person is eligible to enroll for coverage under the terms of an employer's group
2271 health benefit plan if:

2272 (a) the person is:

2273 (i) an employee who is eligible, but not enrolled, for coverage under the terms of the
2274 employer's group health benefit plan; or

2275 (ii) a dependent of an employee, if the dependent is eligible, but not enrolled, for
2276 coverage under the terms of the employer's group health benefit plan; and

2277 (b) the conditions of either Subsection (2) or (3) are met.

2278 (2) Subsection (1) applies if:

2279 (a) the employee or dependent is covered under:

2280 (i) a Medicaid health benefit plan under Title XIX of the Social Security Act; or

2281 (ii) a state child health benefit plan under Title XXI of the Social Security Act;

2282 (b) coverage of the employee or dependent described in Subsection (2)(a) is terminated
2283 as a result of loss of eligibility for the coverage; and

2284 (c) the employee requests coverage under the employer's group health plan no later
2285 than 60 days after the date of termination of the coverage described in Subsection (2)(a).

2286 (3) Subsection (1) applies if:

2287 (a) the employee or dependent becomes eligible for assistance, with respect to coverage
2288 under the employer's group health plan under a plan described in Subsection (2)(a), including
2289 under a waiver or demonstration project conducted under or in relation to a plan described in
2290 Subsection (2)(a); and

2291 (b) the employee requests coverage under the employer's group health plan no later
2292 than 60 days after the date the employee or dependent is determined to be eligible for the
2293 assistance described in Subsection (3)(a).

2294 Section 20. Section **31A-26-201** is amended to read:

31A-26-201. Requirement of license.

(1) Except as provided in Subsection (2)~~;~~~~no~~;

~~(a) a person may not perform, offer to perform, or solicit the opportunity to perform~~
~~[any] an act of insurance adjusting without a valid license under Section 31A-26-203; and [no]~~

~~(b) a person may not use the insurance adjusting services of another if the person~~
knows or should know that the one providing these services does not have a license as required
by law.

(2) The following are exempt from the license requirement of Subsection (1), when
acting in the indicated ~~[capacities]~~ capacity:

(a) ~~[a person]~~ an individual engaged in insurance adjusting as a regular salaried
employee of, and not an independent contractor for, an insurer;

(b) an arbitrator or an umpire selected by the claimant and insurer to decide, alone or
with others, whether a claim should be paid and how much should be paid;

(c) an attorney at law acting in an attorney-client relationship;

(d) an insurance producer, but only as to ~~[the classes]~~;

(i) a class of insurance for which [he] the insurance producer is licensed under Section
31A-23a-106; and ~~[only as to claims]~~

(ii) a claim adjusted on the request of an insurer for which ~~[he] the insurance producer~~
is a producer;

(e) a regular salaried employee of, and not an independent contractor for, a
policyholder or claimant under an insurance policy;

(f) an employee of a licensed insurance adjuster who provides only administrative or
clerical assistance;

(g) ~~[person]~~ an individual who does not do insurance adjusting under Section
31A-26-102, but who is specially employed to obtain facts about a loss for or furnish technical
assistance to a licensed adjuster or a company adjuster, including:

(i) a photographer~~;~~;

(ii) an estimator ~~[or]~~;

(iii) an appraiser~~;~~;

(iv) a marine surveyor~~;~~;

(v) a private detective~~;~~;

2326 (vi) an engineer; and
 2327 (vii) a handwriting expert;
 2328 (h) a holder of a group insurance policy, with respect to administrative activities in
 2329 connection with that insurance policy, who receives no compensation for ~~his~~ the
 2330 policyholder's services beyond the actual expenses estimated on a reasonable basis;
 2331 (i) ~~[a person]~~ an individual engaged in insurance adjusting as a regular salaried
 2332 employee of, and not an independent contractor for, an administrator licensed under Chapter
 2333 25~~[and]~~, Third Party Administrators; or
 2334 (j) a person who gives advice or assistance without compensation or expectation of
 2335 compensation, direct or indirect.
 2336 (3) ~~[No]~~ A claim settlement between an insurer and an insured or a claimant under an
 2337 insurance ~~[contract is]~~ policy may not be considered invalid as a result of a violation of this
 2338 section.
 2339 Section 21. Section **31A-35-401** is amended to read:
 2340 **31A-35-401. Requirement for license or certificate of authority -- Process -- Fees**
 2341 **-- Limitations.**
 2342 (1) (a) A person may not engage in the bail bond surety insurance business unless that
 2343 person:
 2344 (i) is a bail bond surety company licensed under this chapter;
 2345 (ii) is a surety insurer that is granted a certificate under this section in the same manner
 2346 as other insurers doing business in this state are granted certificates of authority under this title;
 2347 or
 2348 (iii) is a bail bond producer licensed in accordance with this section.
 2349 (b) A bail bond surety company shall be licensed under this chapter as an agency.
 2350 (c) A bail bond producer shall be licensed under Chapter 23a, Insurance Marketing -
 2351 Licensing Producers, Consultants, and Reinsurance Intermediaries, as a limited lines producer.
 2352 (2) A person applying for a bail bond surety company license under this chapter shall
 2353 submit to the commissioner:
 2354 (a) a completed application form as prescribed by the commissioner;
 2355 (b) a fee as determined by the commissioner in accordance with Section ~~[63J-1-504]~~
 2356 31A-3-103; and

(c) any additional information required by rule.

(3) ~~[Fees]~~ A fee required under this section ~~[are]~~ is not refundable.

(4) ~~[Fees]~~ A fee collected from a bail bond surety company shall be deposited in a restricted account created in Section 31A-35-407.

(5) (a) A bail bond surety company shall be domiciled in Utah.

(b) A bail bond producer shall be a resident of Utah.

(c) A foreign surety insurer that is granted a certificate to issue bail bonds may only issue bail bonds through a bail bond surety company licensed under this chapter.

Section 22. Section **31A-35-406** is amended to read:

31A-35-406. Renewal and reinstatement.

(1) (a) To renew its license under this chapter, on or before the last day of the month in which the license expires a bail bond surety company shall:

(i) complete and submit a renewal application to the department; and

(ii) pay the department the applicable renewal fee established in accordance with Section ~~[63J-1-504]~~ 31A-3-103.

(b) A bail bond surety company shall renew its license under this chapter annually as established by department rule, regardless of when the license is issued.

(2) A bail bond surety company may apply for reinstatement of an expired bail bond surety company license within one year following the expiration of the license under Subsection (1) by:

(a) submitting the renewal application required by Subsection (1); and

(b) paying a license reinstatement fee established in accordance with Section ~~[63J-1-504]~~ 31A-3-103.

(3) If a bail bond surety company license has been expired for more than one year, the person applying for reinstatement of the bail bond surety license shall:

(a) submit a new application form to the commissioner; and

(b) pay the application fee established in accordance with Section ~~[63J-1-504]~~ 31A-3-103.

(4) If a bail bond surety company license is suspended, the applicant may not submit an application for a bail bond surety company license until after the end of the period of suspension.

2388 (5) ~~[Fees]~~ A fee collected under this section shall be deposited in the restricted account
2389 created in Section 31A-35-407.

2390 Section 23. Section **31A-36-102** is amended to read:

2391 **31A-36-102. Definitions.**

2392 As used in this chapter:

2393 (1) (a) "Advertising" means a communication placed before the public to:

2394 (i) create an interest in a life settlement; or

2395 (ii) induce a person pursuant to a life settlement to sell, assign, devise, bequest, or
2396 transfer the death benefit or ownership of:

2397 (A) a policy; or

2398 (B) an interest in a policy.

2399 (b) "Advertising" includes the following, if the requirements of Subsection (1)(a) are
2400 met:

2401 (i) a written, electronic, or printed communication;

2402 (ii) a communication by means of a recorded telephone message;

2403 (iii) a communication transmitted on radio, television, the Internet, or similar
2404 communications media; and

2405 (iv) a film strip, motion picture, or video.

2406 (2) "Business of life settlements" includes the following:

2407 (a) offering a life settlement;

2408 (b) soliciting a life settlement;

2409 (c) negotiating a life settlement;

2410 (d) procuring a life settlement;

2411 (e) effectuating a life settlement;

2412 (f) purchasing a life settlement;

2413 (g) investing in a life settlement;

2414 (h) financing a life settlement;

2415 (i) monitoring a life settlement;

2416 (j) tracking a life settlement;

2417 (k) underwriting a life settlement;

2418 (l) selling a life settlement;

- 2419 (m) transferring a life settlement;
2420 (n) assigning a life settlement;
2421 (o) pledging a life settlement;
2422 (p) hypothecating a life settlement; or
2423 (q) in any other manner acquiring an interest in [a] an insurance policy by means of a
2424 life settlement.
- 2425 (3) "Chronically ill" means:
2426 (a) being unable to perform at least two activities of daily living, such as eating,
2427 toileting, moving from one place to another, bathing, dressing, or continence;
2428 (b) requiring substantial supervision for protection from threats to health and safety
2429 because of severe cognitive impairment; or
2430 (c) having a level of disability similar to that described in Subsection (3)(a).
2431 (4) "Depository institution" is as defined in Section 7-1-103.
2432 (5) (a) "Financing entity" means a person:
2433 (i) who has direct ownership in a policy that is the subject of a life settlement;
2434 (ii) whose principal activity related to a life settlement is providing money to effect the
2435 life settlement or the purchase of one or more settled policies; and
2436 (iii) who has an agreement in writing with one or more licensed life settlement
2437 providers to finance the acquisition of one or more life settlements.
2438 (b) "Financing entity" includes, if the requirements of Subsection (5)(a) are met, the
2439 following:
2440 (i) an underwriter;
2441 (ii) a placement agent;
2442 (iii) an enhancer of credit;
2443 (iv) a lender;
2444 (v) a purchaser of securities; and
2445 (vi) a purchaser of a policy from a life settlement provider.
2446 (c) "Financing entity" does not include:
2447 (i) a nonaccredited investor; or
2448 (ii) a life settlement purchaser.
2449 (6) "Form" means, in addition to a form as defined in Section 31A-1-301:

- 2450 (a) a life settlement;
- 2451 (b) a disclosure to an owner;
- 2452 (c) a notice of intent to settle; or
- 2453 (d) a verification of coverage.
- 2454 (7) "Life expectancy" means the mean number of months an individual insured under a
- 2455 policy to be settled can be expected to live considering medical records and appropriate
- 2456 experiential data.
- 2457 (8) (a) "Life settlement" means a written agreement:
- 2458 (i) between an owner and a life settlement provider; and
- 2459 (ii) ~~[for] that establishes the terms for the payment of anything of value, [that is less~~
- 2460 ~~than the expected death benefit of the policy,]~~ in exchange for the owner assigning, selling,
- 2461 transferring, devising, releasing, or bequeathing, at the time of or after the exchange, the death
- 2462 benefit or ownership of:
- 2463 (A) any portion of a policy; or
- 2464 (B) a beneficial interest in the policy.
- 2465 (b) "Life settlement" includes:
- 2466 (i) the transfer for compensation or value of ownership or beneficial interest in a trust
- 2467 or other entity that owns a policy if the trust or other entity is formed or operated for the
- 2468 principal purpose of acquiring one or more policies; or
- 2469 (ii) a premium finance loan made for a policy by a lender to an owner on, before, or
- 2470 after the date of issuance of the policy if the owner:
- 2471 (A) receives on the date of the premium finance loan a guarantee of a future life
- 2472 settlement value of the policy; or
- 2473 (B) agrees on the date of the premium finance loan to sell the policy or any portion of
- 2474 the policy's death benefit on a date following the issuance of the policy.
- 2475 (c) An agreement described in Subsection (8)(a) is a "life settlement" even if it is
- 2476 referred to by a different name, including:
- 2477 (i) a ~~["life"]~~ "viatical" settlement"; or
- 2478 (ii) a "senior settlement."
- 2479 (d) "Life settlement" does not include:
- 2480 (i) a loan or accelerated death benefit by an insurer pursuant to the terms of a policy;

2481 (ii) loan proceeds that are used solely to pay:
2482 (A) premiums for a policy; and
2483 (B) the loan costs or other expenses incurred by the lender, including:
2484 (I) interest;
2485 (II) an arrangement fee;
2486 (III) a use fee;
2487 (IV) closing costs;
2488 (V) attorney fees and expenses;
2489 (VI) trustee fees and expenses; and
2490 (VII) third party collateral provider fees and expenses, including fees payable to a letter
2491 of credit issuer;
2492 (iii) (A) a loan made by a licensed lender in which the licensed lender takes an interest
2493 in a policy solely to secure repayment of a loan; or
2494 (B) the transfer of a policy by a lender, if:
2495 (I) the loan is:
2496 (Aa) a loan described in Subsection (8)(d)(iii)(A); or
2497 (Bb) a premium finance loan that is not a life settlement;
2498 (II) the loan is defaulted on;
2499 (III) the policy is transferred; and
2500 (IV) neither the default itself nor the transfer of the policy in connection with the
2501 default is pursuant to an agreement with any other person for the purpose of evading regulation
2502 under this chapter;
2503 (iv) an agreement where all the participants in the agreement:
2504 (A) (I) are closely related to the insured by blood or law; or
2505 (II) have a lawful substantial economic interest in the continued life, health, and bodily
2506 safety of the person insured; and
2507 (B) are trusts established primarily for the benefit of the participants in the agreement;
2508 (v) a designation, consent, or agreement by an insured who is an employee of an
2509 employer in connection with the purchase by the employer, or trust established by the
2510 employer, of life insurance on the life of the employee; or
2511 (vi) a business succession planning arrangement not made for the purpose of evading

2512 regulation under this chapter:

2513 (A) (I) between one or more shareholders in a corporation; or

2514 (II) between a corporation and:

2515 (Aa) one or more of its shareholders; or

2516 (Bb) one or more trusts established by its shareholders;

2517 (B) (I) between one or more partners in a partnership; or

2518 (II) between a partnership and:

2519 (Aa) one or more of its partners; or

2520 (Bb) one or more trusts established by its partners; or

2521 (C) (I) between one or more members in a limited liability company; or

2522 (II) between a limited liability company and:

2523 (Aa) one or more of its members; or

2524 (Bb) one or more trusts established by its members.

2525 (9) (a) "Life settlement producer" means a person licensed in the state as a life
2526 insurance producer that on behalf of an owner and for consideration offers or attempts to
2527 negotiate a life settlement between the owner and one or more life settlement providers.

2528 (b) "Life settlement producer" does not include an attorney licensed to practice law in
2529 any state, a certified public accountant, or a financial planner accredited by a nationally
2530 recognized accrediting agency:

2531 (i) that is retained to represent an owner; and

2532 (ii) whose compensation is not paid directly or indirectly by:

2533 (A) a life settlement provider; or

2534 (B) a life settlement purchaser.

2535 (10) (a) "Life settlement provider" means a person other than an owner that enters into
2536 or effectuates a life settlement.

2537 (b) "Life settlement provider" does not include:

2538 (i) a licensed lender that takes an assignment of a policy as security for a loan,
2539 including a:

2540 (A) depository institution; or

2541 (B) lender that makes a premium finance loan that is not described in Subsection

2542 (8)(b)(ii);

- 2543 (ii) the issuer of a policy;
- 2544 (iii) an authorized or eligible insurer that provides stop-loss coverage to:
- 2545 (A) a life settlement provider;
- 2546 (B) a life settlement purchaser;
- 2547 (C) a financing entity;
- 2548 (D) a special purpose entity; or
- 2549 (E) a related provider trust;
- 2550 (iv) a financing entity;
- 2551 (v) a special purpose entity;
- 2552 (vi) a related provider trust;
- 2553 (vii) a life settlement purchaser; or
- 2554 (viii) a qualified institutional buyer as defined in Rule 144A, 17 C.F.R. Sec. 230.144A
- 2555 that purchases a settled policy from a life settlement provider.
- 2556 (11) (a) "Life settlement purchaser" means a person that, to derive an economic benefit:
- 2557 (i) provides a sum of money as consideration for a policy or an interest in the death
- 2558 benefits of a policy; or
- 2559 (ii) owns, acquires, or is entitled to a beneficial interest in a trust that:
- 2560 (A) owns a life settlement; or
- 2561 (B) is the beneficiary of a policy that has been or will be the subject of a life settlement.
- 2562 (b) "Life settlement purchaser" does not include:
- 2563 (i) a life settlement provider;
- 2564 (ii) a life settlement producer;
- 2565 (iii) an accredited investor as defined in Regulation D, Rule 501, 17 C.F.R. Sec.
- 2566 230.501;
- 2567 (iv) a qualified institutional buyer as defined in Rule 144A, 17 C.F.R. Sec. 230.144A;
- 2568 (v) a financing entity;
- 2569 (vi) a special purpose entity; or
- 2570 (vii) a related provider trust.
- 2571 (12) (a) "Owner" means any of the following who resides in this state and seeks to
- 2572 enter into a life settlement:
- 2573 (i) the owner of a policy; or

- 2574 (ii) the holder of a certificate of ~~[insurance under]~~ a group policy ~~[of group insurance]~~.
- 2575 (b) "Owner" is not limited to ~~[a person]~~ an individual who is terminally ill or
- 2576 chronically ill except when the limitation is expressly provided in this chapter.
- 2577 (c) "Owner" does not include:
- 2578 (i) a life settlement provider;
- 2579 (ii) a life settlement producer;
- 2580 (iii) a qualified institutional buyer as defined in Rule 144A, 17 C.F.R. Sec. 230.144A;
- 2581 (iv) a financing entity;
- 2582 (v) a special purpose entity; or
- 2583 (vi) a related provider trust.
- 2584 (13) "Policy" means:
- 2585 (a) an individual or group life insurance policy;
- 2586 (b) an individual or group annuity policy;
- 2587 ~~[(b)]~~ (c) a group life insurance certificate ~~[for life insurance; or];~~
- 2588 (d) a group annuity certificate; or
- 2589 ~~[(c)]~~ (e) a [contract or arrangement of] life insurance policy or an annuity policy,
- 2590 whether or not delivered or issued for delivery in Utah:
- 2591 (i) affecting the rights of a resident of Utah; or
- 2592 (ii) bearing a reasonable relation to Utah.
- 2593 (14) "Premium finance loan" is a loan made primarily for the purpose of making
- 2594 premium payments on a policy if the loan is secured by an interest in the policy.
- 2595 (15) "Related provider trust" means a trust established by a licensed life settlement
- 2596 provider or a financing entity solely to hold the ownership of or beneficial interests in
- 2597 purchased policies in connection with financing.
- 2598 (16) "Settled policy" means a policy that is acquired by a life settlement provider
- 2599 pursuant to a life settlement.
- 2600 (17) "Special purpose entity" means an entity formed by a licensed life settlement
- 2601 provider solely to enable the life settlement provider to gain access to institutional markets for
- 2602 capital.
- 2603 (18) (a) "Stranger-originated life insurance" means an act, practice, or arrangement to
- 2604 initiate a policy for the benefit of a third party investor or other person who has no insurable

interest in the insured resulting in the requirements of Section 31A-21-104 not being met.

(b) "Stranger-originated life insurance" includes when:

(i) a policy is purchased with resources or guarantees from or through a person who, at the time of policy origination, could not lawfully initiate the policy itself; and

(ii) at the time of policy origination, there is an agreement, whether oral or written, to directly or indirectly transfer to a third party the ownership of a policy, policy benefits, or both.

(c) "Stranger-originated life insurance" does not include:

(i) a life settlement that complies with:

(A) this chapter; and

(B) Section 31A-21-104; or

(ii) an act, practice, or arrangement described in Subsection (8)(d).

(19) "Terminally ill" means having a condition that reasonably may be expected to result in death within 24 months.

Section 24. Section **31A-40-103** is amended to read:

31A-40-103. Duties of the commissioner.

(1) (a) The commissioner shall maintain a list of professional employer organizations that are licensed under this chapter.

(b) The commissioner shall make the list required by this Subsection (1) available to the public by electronic or other means.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner:

(a) shall make rules to prescribe the requirements for forms required under this chapter;

[and]

(b) may make rules to prescribe the requirements and process for correcting under Section 31A-40-205:

(i) a deficiency in working capital; or

(ii) negative working capital;

~~(b)~~ (c) may make rules to prescribe the requirements for the review and submission of a financial statement under Section 31A-40-305:

(i) that are consistent with generally accepted accounting principles; and

(ii) including the timeliness of a financial statement~~[;]~~; and

(d) may make rules to prescribe the requirements and process for when a professional employer organization license is terminated by:

(i) voluntary surrender of the professional organization license; or

(ii) involuntary surrender of the professional organization license.

(3) A rule in effect on May 5, 2008 under the repealed Title 58, Chapter 59, Professional Employer Organization Registration Act, [~~shall be: (a) renumbered as a rule made under this chapter, and (b) remain~~] remains in effect until such time as the commissioner modifies or repeals the rule.

~~[(4) The commissioner shall report to the Business and Labor Committee by no later than the November 2009 interim meeting as to whether the commissioner recommends that the working capital requirements of Section 31A-40-205 be modified.]~~

Section 25. Section **31A-40-302** is amended to read:

31A-40-302. Licensing process.

(1) To apply for an initial or renewal license under this chapter, a person shall:

(a) (i) ~~[file]~~ submit an application with the commissioner on a form and in a manner the commissioner shall determine by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) pay a license fee determined in accordance with Section 31A-3-103 that is not refunded if the application:

(A) is denied; ~~[or]~~

(B) does not comply with Section 31A-40-303; or

~~[(B)] (C)~~ if incomplete, is never completed by the person filing the application; or

(b) comply with Section 31A-40-303.

(2) In the application described in Subsection (1)(a), the person shall provide:

(a) any name under which the professional employer organization will engage in a professional employer service;

(b) the address of the principal place of business of the professional employer organization;

(c) the address of each location the professional employer organization maintains in this state;

(d) the professional employer organization's federal taxpayer or employer identification

2667 number;

2668 (e) the following information by jurisdiction of each name under which the

2669 professional employer organization operated in the five years preceding the day on which the

2670 person ~~[files]~~ submits the application:

2671 (i) the name;

2672 (ii) an alternative name, if any;

2673 (iii) a name of a predecessor; and

2674 (iv) if known, a successor business entity;

2675 (f) a statement of ownership that includes the name and evidence of the business

2676 experience of a person that, individually or acting in concert with one or more other persons,

2677 owns or controls, directly or indirectly, 10% or more of the equity interests of the professional

2678 employer organization;

2679 (g) a statement of management that includes the name and evidence of the business

2680 experience of ~~[a person]~~ an individual who:

2681 (i) serves as president of the professional employer organization;

2682 (ii) serves as chief executive officer of the professional employer organization; or

2683 (iii) may act as a senior executive officer of the professional employer organization;

2684 and

2685 (h) a financial statement that:

2686 (i) sets forth the financial condition of:

2687 (A) the professional employer organization; or

2688 (B) a professional employer organization group in which the professional employer

2689 organization is a member;

2690 (ii) states whether or not the professional employer organization complies with Section

2691 31A-40-205; and

2692 (iii) complies with Section 31A-40-305.

2693 ~~[(3) A professional employer organization that is registered by the Division of~~

2694 ~~Occupations and Professional Licensing as of May 4, 2008 shall comply with this section by no~~

2695 ~~later than November 5, 2008. An initial license obtained under this Subsection (3) is valid~~

2696 ~~until the end of the professional employer organization's first full fiscal year that immediately~~

2697 ~~follows the day on which the initial license application is filed.]~~

2698 ~~[(4) Within 180 days after the day on which a professional employer organization's~~
2699 ~~fiscal year ends, a]~~

2700 (3) A professional employer organization shall renew its license ~~[by complying with~~
2701 ~~Subsection (1)]~~ by no later than October 1 of each year.

2702 Section 26. Section **31A-40-307** is enacted to read:

2703 **31A-40-307. Voluntary surrender of professional employer organization license.**

2704 (1) When a professional employer organization wants to voluntarily surrender its
2705 professional employer organization license, the professional employer organization shall:

2706 (a) notify in writing each coemployer regarding the impending loss of the following
2707 provided under the professional employer agreement:

2708 (i) workers' compensation insurance coverage;

2709 (ii) health care benefits, if a coemployers' employee welfare plan includes fully insured
2710 or partially insured health insurance benefits; and

2711 (iii) any other insurance benefit provided to coemployers by the professional employer
2712 organization; and

2713 (b) submit a letter of intent to voluntarily surrender the license to the commissioner:

2714 (i) after providing the notice to coemployers under Subsection (1)(a); and

2715 (ii) not less than 45 days before the day on which the professional employer
2716 organization surrenders its professional employer organization license.

2717 (2) The letter of intent to voluntarily surrender a professional employer organization
2718 license shall include the following:

2719 (a) the reason the professional employer organization license is being surrendered;

2720 (b) a discussion of each process or plan to handle the obligations to coemployers and
2721 employees;

2722 (c) a list of coemployers as of the date of the letter;

2723 (d) a copy of the notice sent to the coemployers under Subsection (1)(a);

2724 (e) certification that the professional employer organization has notified the
2725 coemployers located in Utah of the professional employer organization's intent to cease doing
2726 business in Utah; and

2727 (f) the signature of the professional employer organization's chief executive officer or
2728 controlling individual.

Section 27. Section **31A-42-201** is amended to read:

31A-42-201. Creation of defined contribution market risk adjuster mechanism -- Board of directors -- Appointment -- Terms -- Quorum -- Plan preparation.

(1) There is created the "Utah Defined Contribution Risk Adjuster," a nonprofit entity within the ~~[Insurance Department]~~ department.

(2) (a) The risk adjuster ~~[shall be]~~ is under the direction of a board of directors composed of up to nine members described in Subsection (2)(b).

(b) The board of directors shall consist of:

~~[(b) The]~~ (i) following directors ~~[shall be]~~ appointed by the governor with the consent of the Senate:

~~[(i)]~~ (A) at least three, but up to five, directors with actuarial experience who represent ~~[insurance carriers]~~ insurers:

~~[(A)]~~ (I) that are participating or have committed to participate in the defined contribution arrangement market in the state; and

~~[(B)]~~ (II) including at least one and up to two directors who represent ~~[a carrier]~~ an insurer that has a small percentage of lives in the defined contribution market;

~~[(ii)]~~ (B) one director who represents either an individual employee or employer participant in the defined contribution market;

~~[(iii)]~~ (C) one director ~~[appointed by the governor to represent]~~ who represents the Office of Consumer Health Services within the Governor's Office of Economic Development;

~~[(iv)]~~ (ii) one director representing the Public Employee's Health ~~[Benefit]~~ Program with actuarial experience, ~~[chosen]~~ appointed by the director of the Public Employee's Health ~~[Benefit]~~ Program ~~[who shall serve as an ex-officio member]~~; and

~~[(v)]~~ (iii) the commissioner, or a representative ~~[from the department with actuarial experience]~~ of the commissioner who:

(A) is appointed by the commissioner; and

(B) has actuarial experience.

(c) The commissioner or a representative appointed by the commissioner~~[-, who will only have voting privileges]~~ may vote only in the event of a tie vote.

(3) (a) Except as required by Subsection (3)(b), as terms of current board members appointed by the governor expire, the governor shall appoint each new member or reappointed

2760 member to a four-year term.

2761 (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the
2762 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
2763 board members are staggered so that approximately half of the board is appointed every two
2764 years.

2765 (c) Notwithstanding the requirements of Subsection (3)(a), a board member shall
2766 continue to serve until the board member is reappointed or replaced by another individual in
2767 accordance with this section.

2768 (4) When a vacancy occurs in the membership for any reason, the replacement shall be
2769 appointed for the unexpired term in the same manner as the original appointment was made.

2770 (5) (a) ~~[Members who are not government employees shall receive no]~~ A board
2771 member who is not a government employee may not receive compensation or benefits for the
2772 ~~[members']~~ board member's services.

2773 (b) A state government member who is a board member because of the board member's
2774 state government position may not receive per diem or expenses for the member's service.

2775 (6) The board shall elect annually a chair and vice chair from its membership.

2776 (7) ~~[Six]~~ One-half of the board members are a quorum for the transaction of business.

2777 (8) The action of a majority of the members of the quorum is the action of the board.

2778 Section 28. Section **63J-1-602** is amended to read:

2779 **63J-1-602. Nonlapsing accounts and funds.**

2780 (1) The following revenue collections, appropriations from a fund or account, and
2781 appropriations to a program are nonlapsing:

2782 (a) appropriations made to the Legislature and its committees;

2783 (b) funds collected by the grain grading program, as provided in Section 4-2-2;

2784 (c) the Salinity Offset Fund created in Section 4-2-8.5;

2785 (d) the Invasive Species Mitigation Fund created in Section 4-2-8.7;

2786 (e) funds collected by pesticide dealer license registration fees, as provided in Section
2787 4-14-3;

2788 (f) funds collected by pesticide applicator business registration fees, as provided in
2789 Section 4-14-13;

2790 (g) the Rangeland Improvement Fund created in Section 4-20-2;

2791 (h) funds deposited as dedicated credits under the Insect Infestation Emergency Control
2792 Act, as provided in Section 4-35-6;

2793 (i) the Percent-for-Art Program created in Section 9-6-404;

2794 (j) the Centennial History Fund created in Section 9-8-604;

2795 (k) the Uintah Basin Revitalization Fund, as provided in Section 9-10-108;

2796 (l) the Navajo Revitalization Fund created in Section 9-11-104;

2797 (m) the LeRay McAllister Critical Land Conservation Program created in Section
2798 11-38-301;

2799 (n) the Clean Fuels and Vehicle Technology Fund created in Section 19-1-403;

2800 (o) fees deposited as dedicated credits for hazardous waste plan reviews, as provided in
2801 Section 19-6-120;

2802 (p) an appropriation made to the Division of Wildlife Resources for the appraisal and
2803 purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6;

2804 (q) award monies under the Crime Reduction Assistance Program, as provided under
2805 Section 24-1-19;

2806 (r) funds collected from the emergency medical services grant program, as provided in
2807 Section 26-8a-207;

2808 (s) fees and other funding available to purchase training equipment and to administer
2809 tests and conduct quality assurance reviews, as provided in Section 26-8a-208;

2810 (t) funds collected as a result of a sanction under Section 1919 of Title XIX of the
2811 federal Social Security Act, as provided in Section 26-18-3;

2812 (u) the Utah Health Care Workforce Financial Assistance Program created in Section
2813 26-46-102;

2814 (v) monies collected from subscription fees for publications prepared or distributed by
2815 the insurance commissioner, as provided in Section 31A-2-208;

2816 (w) monies received by the Insurance Department from electronic commerce dedicated
2817 credit fees as provided in Subsection 31A-3-103(3) and Section 31A-3-104;

2818 (x) monies received by the Insurance Department from annual fees for a captive
2819 insurer, as provided in Section 31A-3-304;

2820 (y) monies paid to the Insurance Department for the costs of a criminal background
2821 check, as provided in Section 31A-16-103, 31A-23a-105, and 31A-25-203;

2822 (z) assessments made by the Insurance Department for administering, investigating and
2823 enforcing Title 31A, Part 4, Marketing Practices, and Part 5, Compensation of Producers and
2824 Consultants, as provided in Subsections 31A-23a-415(2) and (3);

2825 ~~[(w)]~~ (aa) monies received by the Insurance Department for administering,
2826 investigating under, and enforcing the Insurance Fraud Act, as provided in Section
2827 31A-31-108;

2828 ~~[(x)]~~ (bb) certain monies received for penalties paid under the Insurance Fraud Act, as
2829 provided in Section 31A-31-109;

2830 ~~[(y)]~~ (cc) the fund for operating the state's Federal Health Care Tax Credit Program, as
2831 provided in Section 31A-38-104;

2832 ~~[(z)]~~ (dd) certain funds in the Department of Workforce Services' program for the
2833 education, training, and transitional counseling of displaced homemakers, as provided in
2834 Section 35A-3-114;

2835 ~~[(aa)]~~ (ee) the Employment Security Administration Fund created in Section
2836 35A-4-505;

2837 ~~[(bb)]~~ (ff) the Special Administrative Expense Fund created in Section 35A-4-506;

2838 ~~[(cc)]~~ (gg) funding for a new program or agency that is designated as nonlapsing under
2839 Section 36-24-101;

2840 ~~[(dd)]~~ (hh) the Oil and Gas Conservation Account created in Section 40-6-14.5;

2841 ~~[(ee)]~~ (ii) funds available to the State Tax Commission for purchase and distribution of
2842 license plates and decals, as provided in Section 41-1a-1201;

2843 ~~[(ff)]~~ (jj) certain fees for the cost of electronic payments under the Motor Vehicle Act,
2844 as provided in Section 41-1a-1221;

2845 ~~[(gg)]~~ (kk) certain fees collected for administering and enforcing the Motor Vehicle
2846 Business Regulation Act, as provided in Section 41-3-601;

2847 ~~[(hh)]~~ (ll) certain fees for the cost of electronic payments under the Motor Vehicle
2848 Business Regulation Act, as provided in Section 41-3-604;

2849 ~~[(ii)]~~ (mm) the Off-Highway Access and Education Restricted Account created in
2850 Section 41-22-19.5;

2851 ~~[(jj)]~~ (nn) certain fees for the cost of electronic payments under the Motor Vehicle Act,
2852 as provided in Section 41-22-36;

2853 ~~[(kk)]~~ (oo) monies collected under the Notaries Public Reform Act, as provided under
2854 46-1-23;

2855 ~~[(H)]~~ (pp) certain funds associated with the Law Enforcement Operations Account, as
2856 provided in Section 51-9-411;

2857 ~~[(mm)]~~ (qq) the Public Safety Honoring Heroes Restricted Account created in Section
2858 53-1-118;

2859 ~~[(nn)]~~ (rr) funding for the Search and Rescue Financial Assistance Program, as
2860 provided in Section 53-2-107;

2861 ~~[(oo)]~~ (ss) appropriations made to the Department of Public Safety from the
2862 Department of Public Safety Restricted Account, as provided in Section 53-3-106;

2863 ~~[(pp)]~~ (tt) appropriations to the Motorcycle Rider Education Program, as provided in
2864 Section 53-3-905;

2865 ~~[(qq)]~~ (uu) fees collected by the State Fire Marshal Division under the Utah Fire
2866 Prevention and Safety Act, as provided in Section 53-7-314;

2867 ~~[(rr)]~~ (vv) the DNA Specimen Restricted Account created in Section 53-10-407;

2868 ~~[(ss)]~~ (ww) the minimum school program, as provided in Section 53A-17a-105;

2869 ~~[(tt)]~~ (xx) certain funds appropriated from the Uniform School Fund to the State Board
2870 of Education for new teacher bonus and performance-based compensation plans, as provided in
2871 Section 53A-17a-148;

2872 ~~[(uu)]~~ (yy) certain funds appropriated from the Uniform School Fund to the State
2873 Board of Education for implementation of proposals to improve mathematics achievement test
2874 scores, as provided in Section 53A-17a-152;

2875 ~~[(vv)]~~ (zz) the School Building Revolving Account created in Section 53A-21-401;

2876 ~~[(ww)]~~ (aaa) monies received by the State Office of Rehabilitation for the sale of
2877 certain products or services, as provided in Section 53A-24-105;

2878 ~~[(xx)]~~ (bbb) the State Board of Regents, as provided in Section 53B-6-104;

2879 ~~[(yy)]~~ (ccc) certain funds appropriated from the General Fund to the State Board of
2880 Regents for teacher preparation programs, as provided in Section 53B-6-104;

2881 ~~[(zz)]~~ (ddd) a certain portion of monies collected for administrative costs under the
2882 School Institutional Trust Lands Management Act, as provided under Section 53C-3-202;

2883 ~~[(aaa)]~~ (eee) certain surcharges on residence and business telecommunications access

2884 lines imposed by the Public Service Commission, as provided in Section 54-8b-10;
2885 ~~[(bbb)]~~ (fff) certain fines collected by the Division of Occupational and Professional
2886 Licensing for violation of unlawful or unprofessional conduct that are used for education and
2887 enforcement purposes, as provided in Section 58-17b-505;
2888 ~~[(ccc)]~~ (ggg) the Nurse Education and Enforcement Fund created in Section
2889 58-31b-103;
2890 ~~[(ddd)]~~ (hhh) funding of the controlled substance database, as provided in Section
2891 58-37-7.7;
2892 ~~[(eee)]~~ (iii) the Certified Nurse Midwife Education and Enforcement Fund created in
2893 Section 58-44a-103;
2894 ~~[(fff)]~~ (jjj) funding for the building inspector's education program, as provided in
2895 Section 58-56-9;
2896 ~~[(ggg)]~~ (kkk) certain fines collected by the Division of Occupational and Professional
2897 Licensing for use in education and enforcement of the Security Personnel Licensing Act, as
2898 provided in Section 58-63-103;
2899 ~~[(hhh)]~~ (lll) the Professional Geologist Education and Enforcement Fund created in
2900 Section 58-76-103;
2901 ~~[(iii)]~~ (mmm) certain monies in the Water Resources Conservation and Development
2902 Fund, as provided in Section 59-12-103;
2903 ~~[(jjj)]~~ (nnn) funds paid to the Division of Real Estate for the cost of a criminal
2904 background check for broker and sales agent licenses, as provided in Section 61-2-9;
2905 ~~[(kkk)]~~ (ooo) the Utah Housing Opportunity Restricted Account created in Section
2906 61-2-28;
2907 ~~[(fff)]~~ (ppp) funds paid to the Division of Real Estate for the cost of a criminal
2908 background check for a mortgage loan license, as provided in Section 61-2c-202;
2909 ~~[(mmm)]~~ (qqq) funds paid to the Division of Real Estate in relation to examination of
2910 records in an investigation, as provided in Section 61-2c-401;
2911 ~~[(nnn)]~~ (rrr) certain funds donated to the Department of Human Services, as provided
2912 in Section 62A-1-111;
2913 ~~[(ooo)]~~ (sss) certain funds donated to the Division of Child and Family Services, as
2914 provided in Section 62A-4a-110;

2915 ~~[(ppp)]~~ (ttt) the Mental Health Therapist Grant and Scholarship Program, as provided
2916 in Section 62A-13-109;

2917 ~~[(qqq)]~~ (uuu) assessments for DUI violations that are forwarded to an account created
2918 by a county treasurer, as provided in Section 62A-15-503;

2919 ~~[(rrr)]~~ (vvv) appropriations to the Division of Services for People with Disabilities, as
2920 provided in Section 62A-5-102;

2921 ~~[(sss)]~~ (www) certain donations to the Division of Substance Abuse and Mental
2922 Health, as provided in Section 62A-15-103;

2923 ~~[(ttt)]~~ (xxx) certain funds received by the Division of Parks and Recreation from the
2924 sale or disposal of buffalo, as provided under Section 63-11-19.2;

2925 ~~[(tttt)]~~ (yyy) revenue for golf user fees at the Wasatch Mountain State Park, Palisades
2926 State Park, or Jordan River State Park, as provided under Section 63-11-19.5;

2927 ~~[(vvv)]~~ (zzz) revenue for golf user fees at the Green River State Park, as provided
2928 under Section 63-11-19.6;

2929 ~~[(www)]~~ (aaa) the Centennial Nonmotorized Paths and Trail Crossings Program
2930 created under Section 63-11a-503;

2931 ~~[(xxx)]~~ (bbb) the Bonneville Shoreline Trail Program created under Section
2932 63-11a-504;

2933 ~~[(yyy)]~~ (ccc) the account for the Utah Geological Survey, as provided in Section
2934 63-73-10;

2935 ~~[(zzz)]~~ (ddd) the Risk Management Fund created under Section 63A-4-201;

2936 ~~[(aaa)]~~ (eee) the Child Welfare Parental Defense Fund created in Section
2937 63A-11-203;

2938 ~~[(bbb)]~~ (fff) the Constitutional Defense Restricted Account created in Section
2939 63C-4-103;

2940 ~~[(ccc)]~~ (ggg) a portion of the funds appropriated to the Utah Seismic Safety
2941 Commission, as provided in Section 63C-6-104;

2942 ~~[(ddd)]~~ (hhh) funding for the Medical Education Program administered by the
2943 Medical Education Council, as provided in Section 63C-8-102;

2944 ~~[(eee)]~~ (iii) certain monies payable for commission expenses of the Pete Suazo Utah
2945 Athletic Commission, as provided under Section 63C-11-301;

2946 [~~(ffff)~~] (jjjj) funds collected for publishing the Division of Administrative Rules'
 2947 publications, as provided in Section 63G-3-402;
 2948 [~~(gggg)~~] (kkkk) the appropriation to fund the Governor's Office of Economic
 2949 Development's Enterprise Zone Act, as provided in Section 63M-1-416;
 2950 [~~(hhhh)~~] (llll) the Tourism Marketing Performance Account, as provided in Section
 2951 63M-1-1406;
 2952 [~~(iiii)~~] (mmmm) certain funding for rural development provided to the Office of Rural
 2953 Development in the Governor's Office of Economic Development, as provided in Section
 2954 63M-1-1604;
 2955 [~~(jjjj)~~] (nnnn) certain monies in the Development for Disadvantaged Rural
 2956 Communities Restricted Account, as provided in Section 63M-1-2003;
 2957 [~~(kkkk)~~] (oooo) appropriations to the Utah Science Technology and Research
 2958 Governing Authority, created under Section 63M-2-301, as provided under Section
 2959 63M-3-302;
 2960 [~~(HHH)~~] (pppp) certain monies in the Rural Broadband Service Fund, as provided in
 2961 Section 63M-1-2303;
 2962 [~~(mmmm)~~] (qqqq) funds collected from monthly offender supervision fees, as provided
 2963 in Section 64-13-21.2;
 2964 [~~(nnnn)~~] (rrrr) funds collected by the housing of state probationary inmates or state
 2965 parole inmates, as provided in Subsection 64-13e-104(2);
 2966 [~~(oooo)~~] (ssss) the Sovereign Lands Management account created in Section 65A-5-1;
 2967 [~~(pppp)~~] (tttt) certain forestry and fire control funds utilized by the Division of
 2968 Forestry, Fire, and State Lands, as provided in Section 65A-8-103;
 2969 [~~(qqqq)~~] (uuuu) the Department of Human Resource Management user training
 2970 program, as provided in Section 67-19-6;
 2971 [~~(rrrr)~~] (vvvv) funds for the University of Utah Poison Control Center program, as
 2972 provided in Section 69-2-5.5;
 2973 [~~(ssss)~~] (www) appropriations to the Transportation Corridor Preservation Revolving
 2974 Loan Fund, as provided in Section 72-2-117;
 2975 [~~(tttt)~~] (xxxx) appropriations to the Local Transportation Corridor Preservation Fund,
 2976 as provided in Section 72-2-117.5;

2977 ~~[(ttttt)]~~ (yyyy) appropriations to the Tollway Restricted Special Revenue Fund, as
 2978 provided in Section 77-2-120;
 2979 ~~[(vvvvv)]~~ (zzzz) appropriations to the Aeronautics Construction Revolving Loan Fund,
 2980 as provided in Section 77-2-122;
 2981 ~~[(wwwww)]~~ (aaaaa) appropriations to the State Park Access Highways Improvement
 2982 Program, as provided in Section 72-3-207;
 2983 ~~[(xxxxx)]~~ (bbbbbb) the Traffic Noise Abatement Program created in Section 72-6-112;
 2984 ~~[(yyyyy)]~~ (ccccc) certain funds received by the Office of the State Engineer for well
 2985 drilling fines or bonds, as provided in Section 73-3-25;
 2986 ~~[(zzzzz)]~~ (ddddd) certain monies appropriated to increase the carrying capacity of the
 2987 Jordan River that are transferred to the Division of Parks and Recreation, as provided in
 2988 Section 73-10e-1;
 2989 ~~[(aaaaa)]~~ (eeeeee) certain fees for the cost of electronic payments under the State
 2990 Boating Act, as provided in Section 73-18-25;
 2991 ~~[(bbbbb)]~~ (fffff) certain monies appropriated from the Water Resources Conservation
 2992 and Development Fund, as provided in Section 73-23-2;
 2993 ~~[(ccccc)]~~ (ggggg) the Lake Powell Pipeline Project Operation and Maintenance Fund
 2994 created in Section 73-28-404;
 2995 ~~[(ddddd)]~~ (hhhhh) certain funds in the Water Development and Flood Mitigation
 2996 Reserve Account, as provided in Section 73-103-1;
 2997 ~~[(ccccc)]~~ (iiiiii) certain funds appropriated for compensation for special prosecutors, as
 2998 provided in Section 77-10a-19;
 2999 ~~[(fffff)]~~ (jjjjj) the Indigent Aggravated Murder Defense Trust Fund created in Section
 3000 77-32-601;
 3001 ~~[(ggggg)]~~ (kkkkk) the Indigent Felony Defense Trust Fund created in Section
 3002 77-32-701;
 3003 ~~[(hhhhh)]~~ (lllll) funds donated or paid to a juvenile court by private sources, as
 3004 provided in Subsection 78A-6-203(c);
 3005 ~~[(iiiiii)]~~ (mmmmm) a state rehabilitative employment program, as provided in Section
 3006 78A-6-210; and
 3007 ~~[(jjjjj)]~~ (nnnnn) fees from the issuance and renewal of licenses for certified court

3008 interpreters, as provided in Section 78B-1-146.

3009 (2) No revenue collection, appropriation from a fund or account, or appropriation to a
3010 program may be treated as nonlapsing unless:

3011 (a) it is expressly referenced by this section;

3012 (b) it is designated in a condition of appropriation in the appropriations bill; or

3013 (c) nonlapsing authority is granted under Section 63J-1-603.

3014 (3) Each legislative appropriations subcommittee shall review the accounts and funds
3015 that have been granted nonlapsing authority under this section or Section 63J-1-603.